UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/1990/6/Add.6
22 July 1994

ENGLISH
Original : FRENCH

Substantive session of 1995

IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Second periodic reports submitted by States parties under articles 16 and 17 of the Covenant

Addendum

PORTUGAL */

[17 May 1994]

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*/ The initial reports submitted by the Government of Portugal concerning rights covered by articles 10 to 12 (E/1980/6/Add.35/Rev.1) and articles 13 to 15 (E/1982/3/Add.27/Rev.1) were considered by the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights at its 1985 session (see E/1985/WG.1/SR.2 and 4 and E/1985/WG.1/SR.6 and 9).

GE.94-17840 (95-95020/EXT)

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I. GENERAL PRINCIPLES

1. Portugal is a sovereign State, a State based on the rule of law in accordance with the principle of independence and self-determination. As a State based on the rule of law, it upholds the fundamental rights of the human person, which are embodied in the Constitution. With regard to Part I of the International Covenant on Economic, Social and Cultural Rights (right of peoples to self-determination), attention is drawn to the first articles of the Portuguese Constitution which, under the heading "Fundamental principles", proclaim the sovereignty of the Portuguese Republic based on the dignity of the human person and the will of the people, the objective of which is to build a free, fair and united society.

2. Article 2 of the Constitution proclaims the democratic nature of the Portuguese Republic based on the sovereignty of the people and the plurality of expression and democratic political organisation and on the guarantee of the exercise of fundamental rights and freedoms. Sovereignty rests with the people, which exercises it in accordance with the procedures specified in the Constitution, and the State is subject to the Constitution and based on democratic legality. In this connection, the validity of the laws and acts of the State, the autonomous regions or local authorities depend on their conformity with the Constitution (art. 3; the supervisory functions of the Constitutional Court will be dealt with at a later stage in this report).

3. The organisation of political power is based on universal suffrage and the political parties representing the diversity of popular opinion which seek office in national and local elections as vehicles for the will of the people (art. 116 to 118).

4. The President of the Republic has inter alia an international competence (the ratification of international agreements negotiated and concluded by the Government, then approved by the Parliament); he promulgates laws, possesses the right of veto, and may raise the question of the constitutionality of a piece of legislation, as a precautionary measure, with the Constitutional Court (arts. 123 to 139).

5. The Parliament (called in Portuguese the Assembleia da República) is the supreme legislative organ. As such, it has exclusive powers (art. 167) and shared powers (art. 168), under which it grants legislative authorization to the Government. It may also pass a motion of censure against the Government (art. 166) with the effect of terminating the Government's mandate.

6. The Executive - the Government - possesses the political, legislative and administrative powers specified in articles 185 and 200 to 202 of the Constitution.

7. The courts represent the judicial power consisting of the judges and the Attorney-General (art. 205 et seq., art. 221 of the Constitution). An organ working in parallel with the courts but possessing supervisory rather than judicial powers is the Office of the Ombudsman, which is responsible for the promotion and protection of the rights of citizens, with particular reference to the actions of the public authorities (art. 23 of the Constitution). One of its powers is to bring before the Constitutional Court the question of the constitutionality of a legislative act or text.

8. The Constitutional Court, dealt with in articles 207, 223 et seq. and 277, ensures that legislative acts are in conformity with the Constitution. A court cannot apply a law which it judges to be in conflict with the Constitution or which one of the parties to the action has asserted to be in conflict with the Constitution (art. 207, art. 280); it is mandatory for any decision applying a law alleged to be in conflict with the Constitution to be referred to the Constitutional Court (art. 280).

9. The President of the Republic may seek an opinion on the constitutionality of a law before it is promulgated (art. 278).

10. Lastly, the Constitutional Court may carry out a general and in abstracto review of a law already in force at the request of the President of the Republic, the President of the Parliament, the Prime Minister, the Ombudsman, the Attorney-General or one tenth of the members of the Parliament or ministers for the autonomous regions (art. 281). In all these cases, a declaration of unconstitutionality shall render the provision in question null and void and entail the restoration of any provision which may have been revoked by the unconstitutional provision (art. 282).

11. Article 1 of the Covenant also provides for promotion of the self-determination of the Trust Territories of States Parties to the Covenant. As far as Portugal is concerned, Macao will be integrated with China in 1999, and Timor, legally under Portuguese administration but militarily occupied by Indonesian troops, has been the object of many initiatives by the Portuguese authorities designed to secure self-determination for the Timorese people.

12. On the subject of the Constitution it is essential to draw attention to articles 4 and 5 of the Covenant, according to which States may subject the rights provided by the Covenant only to such limitations as are necessary for promoting the general welfare in a democratic society and that such limitations must be compatible with the nature of these rights, and that States shall not cease to recognise the existence of a fundamental right on the pretext that the Covenant does not mention such a right.

13. The Constitution presents a set of general principles which operate as guidelines for the whole of Portugal's legal structure; most of these principles embody fundamental rights and, pursuant to article 18 of the Constitution, they are directly applicable and binding on public and private bodies and individuals.

14. The Constitution contains three kinds of principle: general principles; rights, freedoms and guarantees; and economic, social and cultural rights.

15. Part I, section I, of the Constitution (entitled "Fundamental rights and duties") states the principle of universality, according to which all citizens enjoy the rights and are subject to the duties laid down in the Constitution, and the principles of equality (art. 13), protection of Portuguese citizens abroad, equality between citizens and foreign nationals, the statement and interpretation of fundamental rights in accordance with the Universal Declaration of Human Rights, and the interpretation of the general principles; the system for the protection of rights, freedoms and guarantees is dealt with in the statement of fundamental rights in section II (art. 17); the provisions

of the Constitution relating to rights, freedoms and guarantees are directly applicable and binding on public and private bodies and individuals (art. 18).

16. Section I, which sets out several important general principles such as universality and equality, also describes the mode of interpretation of the general principles containing the fundamental rights and covers specific situations which also provide guarantees for individuals: the limitation of the suspension of the exercise of the rights, access to justice and the courts, the right to resist, and the responsibilities of the public authorities and the Ombudsman.

17. Section II sets out the fundamental rights: the right to life and personal integrity and other personal rights, the right to freedom and security, the system for detention without judicial charge, the application of the criminal law, the limits on sentences, the remedy of habeas corpus, the guarantees of defence in criminal proceedings, extradition, the inviolability of the home and of correspondence, the use of data processing, the right to found a family and have children, the freedom of expression, the freedom of the press, the High Authority for the mass media, the right of reply, the freedom of conscience and religion, the freedom of cultural creation, the freedom to learn and to teach, to travel and to emigrate, the freedom to demonstrate and of association, and the freedom to choose one's occupation.

18. With regard to articles 10 to 20 of the Covenant, attention is drawn to the right to found a family and have children, and with regard to articles 13 to 15, to the freedom of cultural creation and the freedom to learn and to teach. It should be noted that, since both these matters are dealt with in section II, the relevant articles of the Covenant are directly applicable by virtue of the linkage of its articles 17 and 18.

19. In section II, chapter II, the Constitution sets out the rights and safeguards of political participation. Chapter III deals with the rights, freedoms and safeguards of workers. Here attention must be drawn to articles 6 to 9 of the Covenant, concerning the rights of workers, in particular to the articles referring to the right to work, trade-union rights and the right to strike. Since these articles are systematically incorporated in section II of the Constitution, they too are directly applicable by virtue of the linkage of articles 17 and 18 mentioned above.

20. However, it is in section III that the Constitution deals with most of the fundamental rights corresponding to the articles of the Covenant which are the subject of this report. This section is excluded from the scope of articles 17 and 18, except for the fundamental rights analogous to the rights set out in section II. The same is certainly true of article 58, paragraph 1, of the Constitution, which states the right to work.

21. There is some correspondence between the title of section III of the Constitution and the title of the Covenant: "Economic, social and cultural rights". Section III of the Constitution is divided into three chapters: economic rights and duties are dealt with in chapter I and include the right to work (art. 58) and the rights of workers (art. 59), corresponding to articles 6 and 7 of the Covenant, while article 8 is reflected in articles 55, 56 and 57 of section II of the Constitution. Article 9 of the Covenant is reflected in section III, chapter II, article 63, concerning social security.

22. Article 10 of the Covenant, concerning the protection and assistance which must be accorded to the family, mothers and children, and prohibiting child labour, is reflected in articles 67, 68, 69 and 70 (and 71 on disabled persons and 72 on old people, although the provisions of these articles are not limited to the family).

23. Article 1 of the Covenant, concerning the provision of an adequate standard of living, including food, clothing and housing and the right to be free from hunger, stipulates the obligation of States Parties to guarantee an adequate standard to living. This adequate standard of living is certainly implicit in all the fundamental rights embodied in the Constitution and is specifically stated in part II concerning economic organization: in the words of article 81 of the Constitution, "promotion of the economic and social well-being and the quality of life of the people, especially the most underprivileged classes" is one of the prime duties of the State. The right to housing is included among the fundamental rights (part III, art. 65), and the right to food, although certainly implicit in article 65, is covered by part II, articles 80 and 81, of the Constitution, concerning economic organization.

24. Article 12 of the Covenant, concerning the guarantee of the right to health by means of the reduction of infant mortality, improvement of hygiene, control of diseases and creation of medical services is reflected in article 64 of the Constitution (part I, section III, chapter II).

25. Section III, chapter III, contains the articles corresponding to articles 13 to 15 of the Covenant. The right to education is stated in general terms in article 73 of the Constitution and in more specific terms in articles 74 to 77. However, the provision of education in territories under Portuguese administration (art. 14 of the Covenant) where it might be difficult to guarantee the right to education, presents a problem only with regard to Timor, where the situation makes it virtually impossible for the Portuguese authorities to provide education. Participation in cultural life (art. 15 of the Covenant) is guaranteed in article 78.

26. It is necessary to review the efforts made by the Portuguese State in these three areas, bearing in mind the difficulty of the direct applicability of the Covenant in domestic law and the need to give actual effect to these rights through action by the Legislature and the Executive.

27. Before doing so, and in order to indicate the sequence followed in this report, we must explain what the direct applicability of the Covenant means in terms of article 8 of the Constitution. We have already spoken of direct applicability. The conceptual approaches of the Covenant and the Constitution are close but not equivalent. The direct applicability of some of the provisions of the Constitution pursuant to article 18 thereof means that they may be invoked by private individuals in the national courts. The direct applicability of a treaty pursuant to article 8, paragraph 2, means its incorporation in the sources of domestic law, without the requirement of any legislative action, so that the international treaty is transposed to domestic law. The treaty, duly approved and ratified, enters into force in domestic law as if it were a piece of national legislation (without prejudice to the precedence of the provisions of the treaty over the provisions of domestic law). The right of private individuals to invoke such provisions depends on the actual existence of enabling legislation.

II. PRINCIPLE OF NON-DISCRIMINATION

28. The principle of non-discrimination is a general principle applied in all areas of law. The most sensitive areas of the application of this principle are equality between nationals and non-nationals, non-discrimination between men and women, and non-discrimination, nowadays a less serious legal and human problem, between children born in and out of wedlock.

29. Article 15 of the Constitution places nationals and non-nationals on an equal footing. This is reflected throughout the regulations concerning non-nationals. We will mention here only section XXV of Act No. 48/90 of 24 August, concerning the National Health Service (this Act is the basic health law), which provides that nationals and non-nationals shall enjoy equal benefits, in conditions of reciprocity, under the National Health Service; Decree-Law No. 197/77 of 17 May, concerning family allowances; Act No. 63/91 of 13 August, concerning access to higher education; and Order No. 538/89 of 12 July.

30. Membership of the European Community has reinforced these regulations. The Treaty on European Union, which entered into force on 1 November 1993, establishes European citizenship, which has political consequences (election of nationals of the European Community to organs of local authority and to the European Parliament, in the State of residence) and diplomatic consequences (protection of community citizens occupying any diplomatic post in any country of the Union). Similarly, Community citizens enjoy freedom of movement, residence, and access to work and services in all member States.

31. The Constitution was revised in 1992 as part of the process of joining the European Union; this was the third revision and consisted of adaptation of the text of the Constitution to the Treaty on European Union, which Portugal approved and ratified on 30 December 1992.

32. Constitutional Act No. 1/92 of 25 November reaffirms in the amendments to the text the strength of the principle of democracy, which already existed domestically but has now been established as one of Portugal's objectives in international relations (art. 7 - European identity and democracy) and commits Portugal to the building of Europe (art. 7 - International relations, new para. 6: "Portugal may, on conditions of reciprocity, in accordance with the principle of subsidiarity and with the objective of economic and social cohesion, agree to the common exercise of the powers necessary to the European Union"). This is a more permissive provision allowing for broader delegation of powers by the Parliament to the Union. The affirmation of the principle of subsidiarity is designed to ensure that decisions are taken by the closest entity, i.e. the entity which can take a properly informed decision, and it is a clear affirmation of respect for regionalism. The goal of economic and social cohesion is to eliminate imbalances between the various regions.

33. With regard to foreigners, article 15 of the Constitution now refers to European citizens, who have an active and passive electoral capacity in certain cases, to be defined by legislation, and (new para. 5) who may elect and be elected members of the European Parliament.

34. Provision is also made for monetary union: the new wording of article 105 of the Constitution, concerning the Central Bank, makes clear the independence of the Bank with respect to the central authorities.

35. According to article 166 of the Constitution, the Parliament supervises and assesses Portugal's participation in the process of European construction. According to new article 200, paragraph 1 (i), the Government must provide to the Parliament timely information about the process of European integration. This duty corresponds to the parliamentary power referred to above. These provisions are concerned with the problem of the "democratic deficit" in the European community, according to which the national parliaments lose to Europe powers which are exercised, at the European level, by the Governments in the Council of Ministers of the Community.

36. Since this revision of the Constitution to bring it into line with the Treaty interrupted the established time period for revisions of the Constitution, article 284, paragraph 1, of the Constitution, concerning the timing of revisions, now provides that the latest revision law for the purposes of the timing of revisions shall be the latest ordinary-revision law. In other words, in the five years since 1989 (date of the latest "ordinary" revision) a revision may take place notwithstanding the intervening revision for the purposes of the Treaty.

37. The "extraordinary" revision, in this case Constitutional Act No. 1/92, was permissible because, pursuant to article 284, paragraph 2, such a revision is always possible, and the text now refers to an "extraordinary" revision of the Constitution.

38. The principle of non-discrimination between men and women is established in the Constitution, initially in the principle of equality established in article 13, which specifies three vital areas which the Portuguese State must take into account:

(a) The prohibition of arbitrary treatment in order to ensure that similar situations receive equal treatment;

(b) The prohibition of discrimination based on subjective considerations;

(c) The need to treat cases differently if an inequality of opportunity justifies compensating action.

39. The principle of equality thus has a social function by justifying the duty to eliminate or reduce social, economic and cultural inequalities in order to guarantee equality before the law. The Constitution provides some examples of "positive discrimination" which may be cited here:

(a) Article 60, paragraph 2 (c), which provides for "special protection at work for women during pregnancy and after childbirth, and for minors, disabled persons and those engaged in particularly arduous activities or working in unhealthy, poisonous or dangerous conditions";

(b) Article 69, paragraph 2, on children, refers to the special protection which must be provided for "orphans and abandoned children (...) against any form of discrimination or oppression and against abuses of authority in the family and in institutions".

40. With regard to non-discrimination, article 36 states that everyone has the right to found a family and to marry on terms of full equality, the spouses having equal rights and duties in respect of their civil and political capacities and the maintenance and education of their children; there shall be no discrimination against children born out of wedlock; and the law and the public services may not use any discriminatory designations of filiation.

41. Article 59, paragraph 3, concerning the right to work, states that it is the duty of the State to safeguard the right to work by guaranteeing equality of opportunity in the choice of occupation or job, and access to a post, job or profession shall not be prohibited or limited by reason of sex (subpara. (c)).

42. In addition to the constitutional provisions, the situation of women is dealt with in international texts which have varying degrees of validity in Portugal depending on whether they are treaties (having direct applicability), derived community law (when the regulations have direct applicability and the directives are binding on States in respect of their purposes) or resolutions and recommendations of international bodies setting out guidelines for conduct in the matter in question.

43. Where the European Community is concerned, the treaties stipulate certain areas of equality between men and women, such as the principle of equal remuneration in article 119 of the Treaty establishing the European Community, the direct effect of which has been recognized by the Court of Justice. The directives of the Council of Ministers provide for equal remuneration, equality in access to work, social protection, equality in the exercise of independent activities including agriculture, and protection of mothers and children. On 21 May 1991 the Council of Ministers launched a programme of action for equality of opportunity between men and women. Several other texts of the European Parliament also refer to equality between men and women.

44. In 1989 the Council of Europe adopted measures concerning equality between men and women and the participation of women in political life (Declaration and Recommendations on the participation of women in political life and in decision-making posts adopted at the first and second ministerial conferences on equality, 1986 and 1989).

45. The United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, as well as programmes on improvement of the status of women up to the year 2000 and resolutions on equality of opportunity in access to work, health and education (Portugal ratified the first Convention in 1980 and the second in 1991; the programmes and resolutions are couched in general terms and do not have treaty force).

46. With regard to domestic law, mention must be made of Acts No. 3/84 of 24 March concerning sex education and family planning, No. 4/84 of 4 April concerning protection of motherhood and fatherhood, and No. 6/84 of 11 May concerning legalization of abortion in certain cases.

47. In 1987 the Military Service Act enabled women to join the armed forces; by Order No. 777/91 of 8 August women may volunteer for military service in the

air force, by Order No. 1156/91 of 11 November, in the army, and by Order No. 163/92 of 13 March, in the navy.

48. In 1988 Act. No. 95/88 of 17 August established the rights of women's associations.

49. In 1990 Decree-Law No. 330/90 of 23 October, containing the Advertising Code, prohibited advertising which discriminates on the basis of race or sex.

50. In 1991 Act No. 33/91 of 27 July established the rights of women's associations and Decree-Law No. 166/91 of 9 May established the Commission on the Equality and Rights of Women. By Decree-Law No. 451/91 of 4 December this Commission was placed under the aegis of the Ministry of Labour and Social Security in order to enhance its effectiveness in the areas for which the Ministry is responsible. Act No. 61/91 of 3 August provided protection for women victims of violent crimes.

51. In addition to the legislation on non-discrimination, there is other evidence of the increased access by women to important administrative and political posts.

52. Women currently make up 52 per cent of the electorate, but no woman occupies the post of secretary-general of a political party. However, women do hold other senior posts in political parties. The Commission on the Equality and Rights of Women published in 1992 a list showing the percentages of women in decision-making posts in the various political parties:

PSD	6.4
PS	8.0
PC	14.2
CDS	12.9
Greens	41.0
PSN	27.4

The percentages for total female membership of the political parties are of course higher (no figures are available, but the interesting point is the participation of women as such).

53. As for the civil service, it is sufficient to say that women occupying the post of senior technician (a civil servant with a university degree having been admitted to the service after a probationary period representing the final phase of a competitive entry examination) account for 50.4 per cent of all civil servants in this category. The Constitution prohibits discrimination against children born out of wedlock, and the Civil Code was amended in 1977 to eliminate the category "illegitimate children". Mention may be made in this connection of the case of the Odivelas Institute, originally reserved for the legitimate daughters of servicemen. This reservation of access to the Institute was declared unconstitutional by the Constitutional Court in its Opinion No. 8/81. No subsequent decisions in this area have been found.

III. IMPLEMENTATION OF SPECIFIC RIGHTS

Article 6

Legislation

54. The right to work is embodied in article 58 of the Portuguese Constitution, which reads:

"1. Everyone shall have the right to work.

2. The duty to work is inseparable from the right to work, except for those persons whose capacities have been diminished by age, sickness or disability.

3. It shall be the duty of the State, by implementing plans for economic and social policy, to safeguard the right to work, ensuring:

(a) The implementation of full-employment policies;

(b) Equality of opportunity in the choice of occupation or type of work, and prevention of the prohibition or restriction by reason of sex of access to any post, work or professional category;

(c) Cultural, technical and vocational training for workers."

55. This is thus a "programmatic" constitutional provision which does not grant citizens the immediate exercise of a right to work but merely imposes on the State, subject to certain economic and social conditions, the obligation to invest this right with a meaningful content and to guarantee it. However, the failure to mention the Legislature for purposes of making the provisions of article 58 of the Constitution enforceable, may constitute grounds for a finding of unconstitutionality by omission (Art. 283 of the Constitution).

56. The Constitution also prohibits dismissals without just cause or for political or ideological reasons (art. 53). This constitutional principle is also reiterated and developed by the supplementary regulations of Decree-Law No. 64-A/89 of 27 February (arts. 3 and 9), according to which any collective dismissals shall be subject to certain economic preconditions, the existence of which may be submitted to the courts for verification (arts. 17 and 25).

57. It is because of this situation that various pieces of legislation have been drafted with a view to guaranteeing everyone the full right to work as stipulated in article 58 of the Portuguese Constitution and in Article 6 of the Covenant and in the European Social Charter, which was ratified by Presidential Decree No. 38/91 of 6 August. We may cite the following legislative texts:

- Decree-Law No. 444/80 of 4 October (general principles of employment and vocational training);

- Decree-Law No. 445/80 of 4 October (promotion of employment);

- Decree-Law No. 206/87 of 16 May (employment policy measures concerning sectoral restructuring);

- Decree-Law No. 392/79 of 20 September (equality of men and women in work and employment);

- Decree-Law No. 426/88 of 18 November (regulations on equality of treatment of men and women in employment in the civil service);

- Decree-Law No. 166/91 of 9 May (establishing the Commission on the Equality and Rights of Women);

- Decree-Law No. 40/83 of 25 January (the protected employment scheme);

- Decree-Law No. 194/85 of 24 June (amendments to Decree-Law No. 40/83 of 25 January on the protected employment scheme);

- Regulatory Decree No. 37/85 of 24 June (on application of Decree-Law No. 40/83 of 25 January on the protected employment scheme);

- Order No. 52/82 of 26 April (introducing a set of measures to encourage the employment of disabled persons);

- Decree-Law No. 18/89 of 11 January (occupational support activities for seriously disabled persons);

- Act No. 9/89 of 2 May (prevention, rehabilitation and integration of disabled persons);

- Decree-Law No. 102/84 of 29 March (vocational training of young people as apprentices);

- Decree-Law No. 338/85 of 21 August (amendments to the apprenticeship scheme);

- Decree-Law No. 17-D/86 of 6 February (establishing a set of rules to stimulate the creation of full-time jobs for young people);

- Decree-Law No. 165/85 of 16 May (cooperative vocational training);

- Decree-Law No. 401/91 of 16 October (vocational training regulations);

- Decree-Law No. 405/91 of 16 October (legal regulations for vocational training in the framework of the jobs market);

- Order No. 73/85 of 10 August (employment/training programmes for young workers);

- Order No. 12/86 of 14 February (provision of financial assistance for the creation of self-employed jobs for young people under 25 seeking employment and for the long-term unemployed);

- Act No. 50/88 of 19 April (provision of support for the integration of young people in working life);

- Order No. 382/88 of 17 June (regulating Act No. 50/88 of 19 April);

- Resolution of the Council of Ministers No. 19/88 of 17 May (measures to encourage the creative capacity of young people);

- Order No. 46/86 of 4 June (regulating the provision of support for local measures of socio-economic promotion by encouraging job-creation projects);

- Order No. 51/89 of 16 June (amendments to Order No. 46/86 of 4 June);

- Decree-Law No. 118/87 of 14 March (support for the creation of self-employed jobs);

- Order No. 37/87 of 6 April (regulating the provision of financial assistance for the creation of self-employed jobs);

- Decree-Law No. 20/85 of 17 January (regulating plans for protection against unemployment);

- Decree-Law No. 64-A/89 of 13 April (regulations governing termination of work contracts);

- Decree-Law No. 68/79 of 9 October (protection of workers' representatives against dismissal).

Choice of employment

58. In its chapter on individual rights, freedoms and guarantees the Portuguese Constitution establishes the principle of free choice of occupation and the right to enter the civil service. Article 47 states that:

> "1. Everyone shall have the right to choose freely his or her occupation or type of work, except for legal restrictions laid down in the public interest or inherent in his or her own capacity.
>
> 2. All citizens shall have the right to enter the civil service under conditions of equality and freedom, generally through public competitive examinations."

59. This freedom of choice of occupation can have a negative dimension, in that no one can be compelled to engage in a given occupation, and a positive dimension - the possibility for everyone freely to choose and engage in an occupation for which he or she meets the conditions and has the necessary qualifications. As examples of restrictions on this principle, expressly allowed by article 47, paragraph 1, we may cite the fact that access to certain occupations or posts is subject to the prior acquisition of specific qualifications or skills, and the prohibition contained in article 269, paragraph 4, of the Constitution on the holding of more than one public post by the same person.

60. The principle of the free choice of occupation emerges equally clearly in article 230, paragraph (c) of the Constitution, which prohibits the autonomous regions from restricting "any occupation or public office to persons born or resident in the region".

61. It has proved necessary with regard to certain categories of workers to implement specific measures to avoid a situation in which the mere proclamation of the principle contained in article 47 may constitute actual discrimination. This is why the situation of women, young people and disabled persons with regard to employment and vocational training has received special attention from the Legislature.

Women

62. Decree-Law No. 392/79 of 20 September, concerning the right of women to equality in employment, and Decree-Law No. 426/88 of 18 November, establishing the regulations for equal treatment of men and women in employment in the civil service, lay down the legal framework for the implementation of the constitutional principle that sex shall not constitute any limitation on access to any post, work or professional category (art. 59, para. 3 (b), of the Constitution); this Decree also creates machinery for the practical implementation of this principle.

63. With regard to the remuneration status of civil servants and other State employees, neither Decree-Law No. 352-A/89 of 16 October, which establishes the basic remuneration structure of careers and categories, nor the other supplementary regulations, specifically Decree-Law No. 323/89 of 26 September, concerning revision of the Senior Personnel Statute, and Order No. 904-B/89 of 16 October, establishing the basic rates of remuneration of civil servants and other employees of public bodies and institutes, as well as their pensions, subsistence and travel allowances, contain any provisions of a discriminatory nature; instead, they identify the professional categories by letter, and all workers, both women and men, are treated equally in these categories.

64. The traditionally male occupational categories include, for example, the category of civil service driver, the regulations for which are contained in Decree-Law No. 381/88 of 28 October. Recruitment to this category is not subject to any condition based on sex. However, in reality most or perhaps even all drivers are men.

65. Attention must also be drawn to Decree-Law No. 498/88 of 30 December, on the "new general regulations governing recruitment and selection of personnel for the civil service", which stipulates expressly, in article 5, paragraph (b), the equality of conditions and opportunity for all candidates (see tables I to IV). */

66. Despite the existence of legislation on the principle of equality, the Commission on Equality in Employment (CITE) has established from the complaints addressed to it that discrimination still exists in the public services. One of the complaints made to the Commission was about inequality of functions between school personnel, alleging that women had a heavier workload.

67. During the period under review, no significant developments have been noted in the participation of women in the decision-making process in the corridors of power.

68. In 1989, for example:

Out of 305 municipal councils, four (1.3%) were chaired by women;

Out of 209 members of the Parliament, 19 (7.9%) were women;

For the first time a woman held the office of Vice-President of the Parliament;

Out of 56 posts in the eleventh constitutional Government, one woman was minister (health) and three women secretaries of State (culture, regional planning and development, and administrative modernization);

Of 18 provincial governments, two were headed by women (Guarda and Setúbal). One woman was a vice-governor of the province of Porto;

Three women are currently members of the European Parliament (PSD, PS and CDU);

Since July 1989 one woman has been a member of the Constitutional Court;

Since 1989 one woman has been a member of the Court of Audit.

69. In 1994:

Out of 305 municipal councils (data for the elections of 12 December 1993), five (1.6%) were chaired by women;

Out of 230 members of the Parliament elected on 6 October 1991, 20 (8.7%) were women;

On 31 December 1993 a woman was appointed to the post of Vice-President of the Parliament;

Out of 59 posts in the twelfth constitutional Government, two women are ministers (education, and environment and natural resources) and four women are secretaries of State (justice, youth, planning and regional development, and administrative modernization);

Out of 51 members of the Regional Assembly of the Azores elected on 11 October 1992, three (8.7%) were women;

Out of 57 members of the Regional Assembly of Madeira elected on 11 October 1992, seven (12.2%) were women;

There are no women members of the governments of the autonomous regions of the Azores and Madeira;

Out of 18 provinces, one - Lisbon - is headed by a woman. A woman is vice-governor of the province of Porto;

In February 1994 a second woman took her seat on the Constitutional Court.

70. Although no statistical data are available for the years since 1986, there has been a remarkable improvement in the participation of women in the decision-making procedures of the civil service, as can be seen from the annexed tables,*/ which also show the gradual ageing of the personnel of the civil service.

71. Article 276, paragraph 1, of the Portuguese Constitution states that "the defence of the country shall be a fundamental right and a fundamental duty of every Portuguese". Accordingly, article 70 of the Military Service Act regulations, annexed to Decree-Law No. 463/88 of 15 December, establishes equality of opportunity, rights and duties between women and men and stipulates that women may volunteer for active service. This provision also states that the statutory regulations must safeguard the social function of mothers.

72. The following are the legal texts which form the basis for the statutory regulations:

Order No. 60/90 of 25 January (establishing the conditions under which women may join the air force);

Order No. 1156/91 of 11 November (stipulating the equality of all citizens, regardless of sex, with respect to service in the army);

Order No. 163/92 of 13 March (establishing that women members of the navy shall be governed by the same statutory regulations as are applicable to male personnel in the same category and class).

73. The following are the percentages of women serving in the armed forces:

Army	3.4
Air force	5.7
Navy	0.8

74. The Commission on Equality in Employment (CITE) has issued the following Opinions in performance of its functions with respect to the private sector.

75. Opinion No. 1/89 deals with wage discrimination on the basis of sex. CITE concluded that wage differentials constituted discrimination on the grounds of sex and decided to:

(a) Communicate this Opinion to employers so that they could correct the existing discrimination and to ensure that the principles of equality in employment and non-discrimination between men and women are always taken into account in personnel management matters;

(b) Request the private sector to submit, within three months, a report on the concrete measures taken to ensure compliance with the principles of equality in employment and non-discrimination;

(c) Communicate this Opinion to the Inspector-General of Labour for information and with a view to monitoring developments;

(d) Recommend to the parties which have signed the relevant collective labour contract to consider the advantages of adopting in future a contract which provides a more rigorous delimitation and description of certain functions.

76. CITE requested the private sector to act on its Opinion and to report on the concrete measures taken to ensure the application of the principle of equality.

77. It must be stressed that the private sector has behaved in an exemplary manner. In its report it stated that it acknowledged the conclusions contained in the Opinion and that concrete measures would be taken to correct the situation. CITE welcomed the collaboration offered by the private sector which, by means of dialogue, has made it possible to reduce the existing discrimination.

78. The Opinion was approved by a majority.

79. Opinion No. 2/89 dealt with discrimination in the treatment of working mothers and working fathers with respect to the provision of benefits, i.e. that working mothers were able to place their children in an enterprise's nursery, while this right was denied to working fathers. CITE concluded that such treatment was discriminatory. The Opinion was approved unanimously.

80. Opinion No. 1/90. The issue here was discrimination in working conditions on the grounds of sex. CITE concluded that the employer was behaving in a discriminatory manner. The Opinion was approved by a majority.

81. In order to make the social partners more aware of the situation and to study cases of discrimination found in collective labour contracts, CITE always scrutinizes these contracts. It has thus emerged that a large percentage of contracts still designate occupations as female ones in several sectors such as services, glass, fisheries, hotels, cork, milling and textiles. In addition to clear direct discrimination, this information also indicates the existence of indirect discrimination, when women are "pushed" towards lower-paid jobs.

82. In accordance with its work plan and following the campaign concluded in 1987, CITE is making a systematic study of all announcements of situations vacant in the daily and weekly press, with a view to producing figures for advertisements which violate the equality regulations and those which comply therewith (see table V).*/

83. It can be seen from the table that only the newspaper Expresso and the businesses which advertise in it comply with the legislation in force, while the Porto Jornal de Notícias carries the largest number of discriminatory advertisements.

84. Approximately 75 per cent of the advertisements published in the daily press are discriminatory.

85. For the purposes of research, documentation and publicizing the problems of women, CITE commissioned a study on sexual harassment in the workplace, the conclusions and recommendations of which are annexed to this report.*/ For the purpose of publicizing the equality regulations, CITE has brought out a book

containing the legislation relating to the civil service and plans to do likewise with regard to the private sector by publishing a book on the regulations protecting mothers and fathers. Again for the purpose of research, CITE established a prize for the best work on the right to equality of women and men in employment.

86. In its work plan for 1990 the Commission attached special importance to the handling of complaints, for its primary task is to consider and give its opinion on all complaints submitted.

87. According to Decree-Law No. 392/79, mentioned above, it is the duty of the State to promote, stimulate and coordinate guidance and occupational training activities for women, giving priority to girls and women in the age groups 14-19 and 20-24 who have no qualifications or a school leaver's certificate, as well as to self-taught women. According to this Decree, the access of women to vocational training courses should be consistent with the percentages set each year by the Ministry of Labour. However, experience has shown that the proportion of women in the total number of students enrolled in vocational training courses is very low (8.7% in 1982 and 7.7% in 1983); moreover, women make up only a third of the students taking courses run by the State vocational training centres.

88. It should nevertheless be stressed that, despite the conceptual division of occupations into male and female, there are already women training to become, for example, locksmiths, lathe-operators, carpenters and house painters, occupations which until recently were reserved for men. At present, some success is expected from the development projects undertaken by local authorities with aid from various ministries; several vocational training courses are being carried out under these projects in areas traditionally considered suitable for women, such as revival of the local handicrafts tradition, which had often been maintained through and by women.

89. There is also a trend towards reform of vocational training programmes to include courses more accessible to women, but there is a need to adapt the premises of the vocational training centres to accommodate female trainees.

90. With regard to the availability of jobs, Decree-Law No. 392/79 stipulates that job advertisements and any other form of publicity connected with preselection or recruitment must not contain any direct or indirect restriction, specification or preference based on sex; recruitment must be effected solely on the basis of objective criteria except for certain positions (jobs in the fashion industry, art or showbusiness), when the nature of the work requires either a man or a woman).

91. Employment centres may not accept or list any offer of work which discriminates on the ground of sex.

92. Mention must be made of the following principles embodied in the Decree (in addition to those described in the comments on articles 7 and 9 of the Covenant):

(a) Guarantee that women workers, on the same terms as men workers, shall have the right to pursue a career which will enable them to reach the

hest level in the occupation concerned; women's right to occupy managerial ts and their right to change careers are also recognized;

(b) Prohibition on employers to dismiss, apply sanctions or in any other harm a woman worker by reason of her complaint of discrimination;

(c) The provisions of collective agreements establishing occupations and upational categories reserved specifically for women or men shall be null and d, and they must be replaced by provisions covering both sexes.

It must be added that Decree-Law No. 392/79 established the Commission on ality in Employment; this Commission is made up of representatives of the ee parties (Government, trade-union associations and employers' associations) its main tasks are the following:

(a) To recommend to the Ministry of Labour and Social Security the option of legislative, regulatory or administrative measures to give effect to principle of equality in employment;

(b) To encourage studies on discrimination against women in employment;

(c) To publicize the objectives of Decree-Law No. 392/79, together with es of violation of its provisions.

ng people

The high rate of unemployment among young people in Portugal has prompted adoption of legislative measures designed either to facilitate the loyment of young people or to improve their vocational training and develop ir entrepreneurial spirit. There follows a description of some of these sures, of an exclusively educational nature, which seek to overcome the lack occupational specialization of young people entering the jobs market.

Decree-Law No. 102/84 of 29 March, as amended by Decree-Law No. 338/85 of August, instituted the apprenticeship vocational training scheme to ilitate the social and occupational integration of young people; this scheme fers an alternative for the thousands of young people who abandon the normal h of education every year. As a result of this policy, several texts were lished to approve the agreements concluded between the Institute of loyment and Vocational Training (IEFP) and several occupational associations h a view to the establishment of vocaational training centres. These texts lude:

- Order No. 361/87 of 30 April approves the agreement establishing the electronics industry vocational training centre;

- Order No. 443/87 of 27 May approves the agreement establishing the clothing industry vocational training centre (CIVEC);

- Order No. 445/87 of 27 May approves the agreement establishing the mineral water bottling industry vocational training centre (CINAGUA);

- Order No. 446/87 of 17 May approves the agreement establishing the food industry vocational training centre (CFPSA);

- Order No. 488/87 of 8 June approves the agreement establishing the footwear industry vocational training centre (CFPIC);

- Order No 489/87 of 9 June approves the agreement establishing the fisheries sector vocational training centre (FORPESCAS);

- Order No. 492/87 of 12 June approves the agreement establishing the vocational training centre for the construction and public works industry of the southern region (CENFIC);

- Order No. 529/87 of 27 July approves the agreement establishing the metal-working industry vocational training centre (CENFIM);

- Order No. 559/87 of 6 July approves the agreement establishing the vocational training centre for the construction and public works industry of the northern region;

- Order No. 615 of 17 July approves the agreement establishing the Beira-Serra inter-enterprise vocational training centre (INTERBEI);

- Order No. 750/87 of 1 September approves the agreement establishing the ceramics industry vocational training centre (CENCAL);

- Order No. 751/87 of 1 September approves the agreement establishing the information technology vocational training centre (CESAI);

- Order No. 758/87 of 2 September approves the agreement establishing the vocational training centre for the cork industry of the northern region (CINCORN);

- Order No. 764/87 of 3 September approves the agreement establishing the vocational training centre for office and commercial workers, services and new technologies (CITEFORMA);

- Order No. 780/87 of 8 September approves the agreement establishing the agriculture sector vocational training centre;

- Order No. 925/87 of 4 December approves the agreement establishing the woodworking and furniture industry vocational training centre (CEPIMM);

- Order No. 16/88 of 7 January approves the agreement establishing the automobile repair vocational training centre (CEPRA);

- Order No. 283/88 of 4 May approves the agreement establishing the textile industry vocational training centre (CITEX);

- Decree-Law No. 176-B/88 of 18 May establishing the Maria Cândida Marquess of Sousa Beirão research and training centre at Veiga da Cunha;

- Order No. 538/88 of 10 August approves the agreement establishing the vocational training centre for the judicial system.

These programmes are designed to facilitate the access of young people to the jobs market by equipping them with an occupational qualification and offering work experience.

96. In addition to what has been said about Decree-Law No. 102/84 of 29 March, as amended by Decree-Law No. 338/85 of 21 August, it must be stressed that enterprises are recognized as highly suitable places for training in that they offer, in addition to the training potential of their qualified staff, the possibility of training directly in the workplace.

97. It was thus decided to introduce a system of alternative training which includes a specialized training element, operating basically in the enterprise, and a general training element which supplements the general training usually provided in educational institutions. This type of training is based on an apprenticeship contract, the aim of which is to provide vocational training for young people without a formal employment contract.

98. The status of an apprentice is therefore different from the status of a worker in the enterprise, and this has certain implications, in particular on the remuneration received: the apprentice receives a training grant paid by the enterprise and the Unemployment Fund; this should not be confused with the concept of payment for work.

99. The employment/training programmes are aimed at young people aged 16 to 18 who are seeking work but have no occupational qualifications, and at the young unemployed aged 19 to 25, who do have some work experience or have enrolled in vocational training courses. The employer, who must conclude a written work contract with the young people within a period of six months, receives technical and financial assistance from the Institute of Employment and Vocational Training in the form of a non-reimbursable grant.

100. The other measures adopted include:

(a) The employment of some 12,000 young people for six months (programme funded by Social Security in conjunction with the Institute of Employment and Vocational Training and the Youth Department);

(b) The employment of 35,000 young people for six weeks in community projects (programme run by the Youth Department);

(c) Decree-Law No. 156/87 of 31 March, which established under the non-contributory social security system a cash benefit called "grant for the integration of young people in working life" available to young people seeking their first job; this legislation was supplemented by Order No. 335/87 of 23 April, which established the regulations for implementation of the Decree-Law.

Disabled persons

101. Article 71, paragraph 2, of the Portuguese Constitution establishes the duty of the State to carry out a national policy for the prevention of

disability and the treatment, rehabilitation and social integration of disabled persons, who must be guaranteed effective exercise of the rights recognized and granted to all citizens, in particular the right to work. The integration of disabled persons in the normal labour market has been the subject of recent legislation establishing the modalities of "protected employment" and special regulations governing the conclusion of work contracts with disabled persons.

102. Mention must be made of Decree-Law No. 40/83 of 25 January, as amended by Decree-Law No. 194/85 of 24 June and regulated by Regulatory Decree No. 37/85 of 24 June. This legal text envisages three modalities of protected employment designed to offer disabled persons having an average work capacity equal to or higher than one third of the normal capacity the opportunity of appropriate personal and vocational development while facilitating, when possible, their transition to normal work.

103. There are no national census figures for the exact number of disabled persons, their proportion in the working population or their rate of unemployment. However, it is estimated that Portugal has about one million disabled persons.

104. With regard to the integration of disabled persons, there are no data on developments in the situation over the past 10 years. But some kind of picture does emerge from a comparison of the situation in 1987 (five years ago) and in 1990 (final data) and the forecasts for 1991.

105. Table VI */ shows an overall increase of over 100 per cent in the integration of disabled persons, and this increase is even larger in the case of employment supports.

106. The Portuguese Constitution establishes the equality of rights and duties of disabled persons with all other persons (in particular the right to work). In order to make this formal equality a reality, the State has just passed legislation to mobilize society and facilitate the social and occupational integration of disabled persons; the legislation deals with areas such as vocational training, careers guidance and preparation, and employment (supports for recruitment, establishment as an own-account worker, and protected employment).

107. Under the employment support programme in the normal labour market (Decree-Law No. 247/89 of 5 August; Order No. 99/90 of 6 September), technical and financial supports are available to employers who recruit disabled persons: compensation subsidy; subsidy for adaptation of jobs and elimination of architectural obstacles; individual adaptation subsidy; recruitment award; and merit award.

108. In addition to encouraging employers to recruit disabled persons, the legislation is also designed to encourage disabled persons themselves, by means of a number of subsidies and loans, to create their own jobs and secure economic independence.

109. The protected employment scheme (Decree-Law No. 40/83 of 25 January; Decree-Law No. 194/85 of 24 June; Decree-law No.247/89 of 5 August; and Regulatory Decree No. 37/85 of 24 June) is designed to ensure the personal and

occupational development of disabled persons having an average work capacity not lower than one third of the normal capacity.

110. The objective of the Hélios programme is to carry out innovative vocational training and employment projects targeted at specific groups of the disabled population in such a way as to facilitate the involvement of local communities, in particular employers, in the projects, the coordination and maximization of resources, vocational training tailored to each of the disabled persons covered by the project, and the integration of young disabled persons in the labour market in order to ensure their personal development and economic independence.

111. The main goal of the Horizon programme is to extend and improve the conditions of access to employment and integration in economic and social life of population groups encountering greater difficulties in these areas, in particular disabled and disadvantaged persons. This programme also contains measures for the development and support of career-guidance organizations and activities, socio-vocational training and integration, training/information and socio-economic integration.

112. The Handynet system is designed to create a European data base (a computerized information system) capable of providing accurate and swift responses to questions from disabled persons, with a view to improving their daily life and making them more independent. In addition, it is hoped that this system will help to establish the promotional measures for the employment of disabled persons on a broader basis and therefore increase the number of individuals receiving support.

113. The Institute of Employment and Vocational Training runs several employment and vocational training programmes targeted at the population at large. However, disabled persons have also received support and found jobs through these programmes.

Vocational training

114. The vocational training programmes described in the following paragraphs are under development.

115. Technical and financial support is provided for initiatives designed to enable disabled persons to make appropriate job decisions in the light of their functional limitations and their expectations.

116. Free vocational training is designed to offer young people who have not yet held a job some experience in a wide variety of work, and it includes both general and practical instruction. This training seeks to give the young people an idea of what practical work is and to develop in them a taste for work, while at the same time encouraging them to make suitable choices about their future occupation. The numbers of persons who have received this training are as follows:

1987	1,657
1988	1,605
1989	1,535
1990	1,600
1991 (est.)	1,700
1992 (est.)	1,300

117. The vocational training of disabled persons is one of the main priorities of the rehabilitation services and constitutes the very foundation of successful socio-economic integration. This training is conducted by means of operational programme No. 7 - training/employment for unemployed disabled adults; operational programme No. 12 - training/employment of young disabled persons; and specific vocational training activities not included in the operational programmes.

118. The vocational training courses focus on three sectors of economic activity (primary, secondary and tertiary), and thus offer more job opportunities. The numbers of persons taking these courses are as follows:

1987	618
1988	784
1989	2,150
1990	3,119
1991 (est.)	3,700
1992 (est.)	4,062

119. Equality of opportunity, rights and duties between men and women is formally established by law. In order to make this equality a reality, there are several programmes aimed at encouraging and supporting the employment and vocational training of women; provided that they meet the necessary conditions, disabled women may benefit from these programmes.

120. With regard specifically to the supports and programmes targeted at disabled persons, it should be noted that, although the percentage of males covered remains higher, in recent years there has been an increase in the number of women receiving assistance.

121. The following are the modalities of protected employment established by Decree-Law No. 40/83 of 25 January (in summary form):

(a) Work performed in a protected employment centre (CEP), legally defined as an industrial, handicrafts, agricultural, commercial or subcontracting production unit operating in the national economy whose goal is to provide disabled persons with paid work and the possibility of vocational training and/or further training to enable them to transfer to the normal labour market as quickly as possible. The CEPs can be created on the initiative of the State or of other public, private or cooperative bodies; they operate along the lines of communal enterprises although they are adapted to the nature of their workers, and they enjoy technical and financial support from the State for their establishment and operation. The number of jobs occupied by workers not covered by the protected employment scheme may not be higher than 25 per cent of the total number of CEP jobs;

(b) Work performed in an "enclave", which is a group of disabled persons working together in special conditions in a normal work situation. The enclaves enjoy the same kinds of support and funding as the CEPs;

(c) Work performed by disabled persons at home when, although meeting the conditions for employment in protected employment centres or enclaves, they cannot travel to work or perform a normal job for medical, family, social or geographical reasons. The legislation provides for the creation of services to distribute home work to this category of disabled person.

122. This piece of legislation contains special provisions for the disabled dealing with such aspects of the work contract as the duties of the body responsible for the protected employment in question, the remuneration of the disabled worker - which must be proportional to the remuneration for the same work of a worker with normal capacity and never lower than the national minimum wage - the duration of the training period and the relevant remuneration, the working hours, overtime and the termination of the work contract. This Decree-Law also stipulates that the social security regulations shall be fully applicable to workers covered by the protected employment scheme.

123. In addition to this effort to integrate the disabled in the labour market by means of various kinds of protected employment, there are programmes consisting either of prevocational or vocational training of disabled persons 1/ or the socio-vocational integration of disabled persons working on their own account or in an enterprise. With regard to the second option, attention must be drawn to the start-up support provided to disabled persons wishing to pursue a viable activity on their own account, to the compensation paid to enterprises and other bodies which recruit disabled persons with a view to their adaptation or readaptation to work, and to the adaptation of jobs and the elimination of architectural obstacles in the enterprises recruiting disabled persons.

124. In its work plan for 1986 the Institute of Employment and Vocational Training envisaged that 300 disabled persons would be covered by these kinds of support. Furthermore, we have tried to monitor the socio-vocational integration of subsidized candidates, while at the same time carrying out activities to make public, private and cooperative bodies more aware of the problems of the employment of disabled persons.

Development and full employment

125. According to article 58, paragraph 3, of the Constitution, "it shall be the duty of the State, by implementing plans for economic and social policy, to safeguard the right to work, ensuring: a) the implementation of full employment policies". Accordingly, pursuant to Decree-Law No. 444/80 of 4 October, which establishes the general principles of employment and vocational training, it is the duty of the State, through the implementation of plans and programmes of economic and social policy, to guarantee the right to work, ensuring inter alia the practical application of a policy of full employment and the provision of material assistance for people who are involuntarily unemployed. Among the fundamental employment-policy activities which it is the duty of the State to carry out, we wish to highlight the measures for promotion of more effective organization and functioning of the labour market with a view to the placement of workers in jobs offering suitable, productive, properly remunerated and freely chosen work within the framework and in accordance with the prospects of

the country's socio-economic development, and the activities designed to identify and publicize the situation and the evolution of employment problems, in particular by means of a regularly updated national programme on the priorities of intervention in the labour market. In the implementation of these measures and of all the other measures contained in Decree-Law No. 448/80, the Portuguese State is committed to taking action in the areas of placement, occupational information and guidance, analysis of the jobs market, vocational training, promotion, and vocational retraining.

126. The specific actions to be taken by the State in the above-mentioned areas include:

(a) With regard to placement, measures to facilitate the occupational and geographical mobility of workers and their families to the extent judged appropriate and necessary for maintaining the balance between the supply and demand of labour;2/

(b) With regard to occupational information and guidance, measures to promote, in collaboration with other organizations, in particular the education system, coordinated occupational information and guidance activities, taking into account the interests and capacities of individuals and the country's socio-economic development, without any discrimination;

(c) With regard to the jobs market, measures for the collection and provision of information on the supply and demand of jobs, the qualifications required for alternative occupations, changes in the qualifications required for various activities, the trends in the jobs market, the regularization of employment and the causes of unemployment, and any other information judged to be useful for the application of the employment policy.

127. With a view to removing certain financial or even psychological obstacles which might prompt unemployed persons to reject jobs located far from their normal places of residence, this piece of legislation has established a "set of measures to encourage geographical mobility", which consists of the payment of travel expenses for attending an interview with the employer, a subsistence allowance for any trial period, the removal expenses of the worker and his family to the area of the job, and an installation allowance. However, experience shows that very little use is made of this arrangement, owing to unattractive wages, the difficulty of finding accommodation, and the schooling problems of the children.

128. Decree-Law No. 445/80, published on the same date as the previous Decree-Law, deals with the promotion of employment, defined any the action taken to create and/or maintain jobs. The financial supports for enterprises provided by this Decree have been suspended, however, and will not be reinstated until the question of the maintenance of jobs in the handicrafts sector has been settled (in this case the plan is to provide support for the creation of 920 jobs and the maintenance of some 190 in 1986).

129. The 1985-1992 medium-term plan defined the "development philosophy" principles which will lead in practice to a governmental policy for the introduction and continuing implementation of an employment plan. In accordance with these principles, priority is to be given to the following types of intervention:

- Creation of economic infrastructure;
- Support for productive investments;
- Human resources development;
- Improvement of accounting in agriculture;
- Industrial conversion;
- Regional development.

130. In concrete terms, the actions for 1992 were established at two levels:

(a) The extension and improvement of basic training and the development of top-quality resources;

(b) The upgrading of human resources.

131. The main activities in 1993 focused on:

- Organization of a training market;
- A new structure for the management of vocational training;
- An enhanced role for economic agents and social partners in the promotion and implementation of vocational training measures;
- Organization of an occupational information system;
- Support for enterprises in the analysis, planning and establishment of vocational training activities;
- Development of cross-occupational training;
- Development of training activities for managerial personnel;
- Introduction of a system of qualification certification.

132. With a view to the attainment of these objectives, the programme of the twelfth constitutional Government states that employment policies will focus on two main strategic goals:

(a) The creation of productive jobs at a rate which will produce a high level of employment, regardless of the development and improvement of the mobility and social protection arrangements for workers affected by restructuring;

(b) The improvement of job quality by providing opportunities for upgrading of occupational qualifications and working conditions.

133. As part of the revision of the Constitution, Constitutional Act No. 1/90 (art. 95) established the Economic and Social Council, conceived as an organ for consultation and dialogue on economic and social policies and invested with

broad powers of intervention; the Council is made up of representatives of the Government, workers and employers.

134. From the institutional standpoint, the implementation of the employment policy is the responsibility of the Institute of Employment and Vocational Training, established in 1979; the Institute is governed by a statute approved by Decree-Law No. 247/85 of 12 July and Order No. 656/86 of 4 November. This legislation lists the following specific powers of the Institute:

(a) To promote the broadest possible knowledge of employment problems and to publicize them;

(b) To promote the organization of the labour market;

(c) To promote information and guidance with respect to vocational training and retraining, placement of workers, in particular young people leaving the education system and the most disadvantaged social groups, study of the jobs situation and the geographical and occupational mobility of the labour force;

(d) To support initiatives for the creation of new jobs in existing or planned production units, and to provide technical and financial assistance to them;

(e) To collaborate in the design, drafting, adoption and assessment of general employment policy, for which the Institute is the executing agency.

135. The Institute carries out a range of employment-support programmes. These programmes are designed to provide financial support for job creation, either for persons working for an employer or for own-account workers, and they include:

- Support for contracts of unspecified duration (Decree-Law No. 64-C/89 of 27 February);
- Local job-creation initiatives (Regulatory Orders No. 46/86 of 4 June and No. 51/89 of 16 June);
- Promotion of self-employment (Regulatory Orders No. 37/87 of 6 April and No. 17/89 of 28 February);
- Support for the creation of own-account jobs by unemployed persons receiving unemployment benefit (Decree-Law No.79-A/89 of 13 March and Order No. 365/86 of 15 July);
- Support for employment in handicrafts (Orders No. 1099/80 of 29 December, No. 902/82 of 24 August and No. 156/86 of 21 April);
- Support for cooperatives (Regulatory Order of 11 August);
- Support unit for the creation of enterprises.

136. These programmes combine a training component during the programme with an employment component at its end. The programmes of this kind include:

- The programme for the integration of young people in working life (IJOVIP), which is designed to provide training for young people aged 18 to 25 in order to make it easier for them to find jobs and, at the same time, to provide employers with workers capable of performing the jobs in question (Order No. 37/89 of 18 January);

- The training and placement of managerial staff, which provides job opportunities for all recently qualified young people in the area of their educational qualification by placing them in enterprises needing technical and scientific staff (Order No. 1/90 of 26 January);

- Support for additional training with a view to the placement in organizations in a position to recruit of young ex-trainees who have completed a vocational training course (Regulatory Orders No. 109/86 of 12 December and No. 47/87 of 6 May);

- The preservation of the cultural heritage, which is designed to facilitate by means of vocational training the access of long-term unemployed adults to the labour market and provide them with a stable job or help them to become self-employed (Regulatory Orders No. 37/87 of 6 April and No. 17/89 of 28 February).

137. There are programmes designed to provide temporary employment for unemployed persons who normally do seasonal work and do not meet the requirements for unemployment benefits and are suffering economic hardship. These programmes are regulated by Regulatory Orders No. 86/85 of 2 September, No. 76/86 of 29 August and No. 31/90 of 10 May.

138. Attention must also be drawn to the role of the Interministerial Employment Commission (CIME), established in 1980; its functions include the submission of proposals for general employment policy and the coordination of the departments responsible for the implementation of approved policies, as well as the coordination of all vocational training activities, regardless of their level.

Rates and trends of employment, unemployment and underemployment

139. According to available data, in 1990 the employment rate maintained the positive trend of recent years, with an increase of 2.3 per cent over 1989 (tables VI to X, annex 1) */ Compared with 1983 3/ and 1985, there was an average annual variation of 1.2 and 2.1 per cent respectively, reflecting the different periods of economic activity, for the earlier period was one of economic recession and the later (1985-1990) one of recovery.

140. Remarkable in this development was the increasing participation of women, who accounted for 39.5 per cent of all employed persons in 1983 and 42.4 per cent in 1990; the reduction in the average work week from 43.2 hours in 1985 to 41.5 hours in 1990 should also be noted. In step with this change, the volume of work increased at an average annual rate of 1.2 per cent from 1985 to 1990, which was slower than the increase in the employed population during the same period.

141. At the same time, recent years have seen an increase in part-time employment, which represented 6.2 per cent of all employment in 1990. In 1990 the rate of part-time employment was particularly striking in the primary sector (where some 14 per cent of all work was part-time) and in the tertiary sector (7%). Of all workers employed part-time in this sector, 75 per cent were women.

142. Throughout the recent period there have also been structural changes in employment, resulting in a decline in the population employed in agriculture (23.8 per cent in 1985 and 17.7 per cent in 1990) and in an increase in services (41.7 per cent in 1985 and 47.6 per cent in 1990) as well as in relative stabilization of employment in the industrial and construction sectors.

143. With regard to other occupations, persons working for an employer were the group showing the biggest increase (70.4 per cent of the total in 1990), while own-account workers saw their relative share increase by 14 per cent since 1983, representing 25.9 per cent of the total working population in 1990.

144. However, differences emerge in this situation when it is analyzed by sector of economic activity; in structural terms, a comparison of developments between 1989 and 1990 shows that the sharpest increases were in persons working for an employer (TCA) in agriculture and own-account workers (TCP) in industry and services.

	1989/1990		
	Agriculture	Industry	Services
TOTAL	-4.1	0.9	5.9
TCP/SPS	-5.4	-6.6	12.7
TCP/CPS	-16.6	9.6	18.6
TCA	4.2	1.3	4.1
	-6.1	-13.5	-1.2

145. Another indicator of the labour market is the level of education and occupational qualifications (see tables XI and XII, annex 1).*/ Where the level of education is concerned, attention should be drawn to the preponderance of basic education (six years of compulsory schooling) for 1985 and 1990.

146. Despite the verified increased in other levels of education (secondary and higher), their relative weight did not exceed nine per cent in 1990.

147. According to the available data, the levels of qualification indicate a fairly rudimentary structure characterized by a high proportion of semi-qualified and unqualified workers (about 30%) and a small proportion of persons with average or good qualifications (about 6%). This structure remained virtually unchanged between 1985 and 1990.

148. The following groups were considered for the purpose of analysing the situation of persons encountering difficult conditions of employment:

(a) Workers with a fixed-term contract;

(b) Temporary workers;

(c) Young people;

(d) Older workers.

149. The number of persons working for an employer on fixed-term contracts increased to 192,000, i.e. from 13.7 per cent in 1985 to 18 per cent in 1990. Women accounted for the biggest increase (107,400).

150. The evolution by economic activity in 1990, in comparison with 1989, was more significant in transport and communications (+3.6%), banking, insurance and real estate (+11.1%), and the civil service (+9.2%).

151. In absolute terms, there was a variation of +14,000 workers between 1985 and 1990, representing 1.7 per cent of the total working population in 1990.

152. Between 1983 and 1990, the proportion of the employed younger population (15-24 years) in the total population remained unchanged at 16 per cent. The total variation over these years was 4.5 per cent, but was larger among women (6.1%).

153. In 1985, 61 per cent of all young people were active, and 33 per cent inactive, and the figures for 1990 were 57 and 40 per cent respectively. The rise in the inactive population was due to the increase in the number of students (136,200) from 79 per cent in 1985 to 87 per cent in 1990.

154. The evolution of the young active population was different in the two periods under study. Between 1983 and 1985 the variation in the active population was negative (about 7%), but in 1985-1990 it was positive (9%). During the latter period the relative variation for women was greater (16.5%), representing an increase of 51,000. However, in comparison with the total active population, there was drop in the young population from 20 per cent in 1983 to 18 per cent in 1990.

155. In 1990, 4.7 per cent of the active population aged 12 to 29 worked part-time: 65 per cent in services and 23 per cent in the primary sector.

156. In 1990, 85 per cent of all employed young persons were working for an employer, as against 77 per cent in 1985.

157. Between 1984 and 1990 there was little change in the educational qualifications of young people; 70 per cent of them still had no more than basic education. As a reflection of this situation, in 1990 0.3 per cent held managerial posts, while 43 per cent were unqualified professionals and trainees.

158. The proportion of older workers (over 55) remained stable throughout the recent period, representing about 16 per cent of the total; the same was true of workers aged 65 or over (4%).

159. The relative proportions of unemployed persons, established by means of family surveys, showed a positive variation between 1983 and 1985, both in

absolute terms and as a percentage of the total for males. Although already in decline during this period, the relative figures for unemployed females remained substantially higher than for males.

160. From 1985 to 1990, or more accurately from 1986, the unemployment rate began to fall, reaching its lowest level in 1990 (220,100). In 1990 the rate of female unemployment was still higher: 6.6 per cent as against 3.2 per cent for men.

161. Young people (15-24 years) showed the highest rate of unemployment in the population of active age (15-64 years): 18.4 per cent in 1983 and 10 per cent in 1990; however, this age group also registered a more significant decline in unemployment.

162. The fall in the number of unemployed young persons to 91,900 during this period reduced their relative weight in total unemployment from 52 per cent in 1983 to 42 per cent in 1990. The number of unemployed young females oscillated between 62 per cent in 1983 and 58 per cent in 1990.

163. Although showing a less marked variation throughout the periods under consideration, the population aged 55 and over followed the same trend as the other groups in terms both of numbers unemployed and of unemployment rate.

164. With regard to the length of time people were out of work, the number of long-term unemployed declined as a proportion of the unemployed total from 48.5 to 34 per cent. In contrast, there was an increase in the number of persons out of work for less than six months from 30.3 to 44.1 per cent. All these variations were most marked among the young population.

165. According to data produced by the employment centres of the Institute of Employment and Vocational Training, the reserve of unemployed persons (annual average of end-of-month figures) also showed a positive variation in terms of the number of unemployed persons seeking work between 1983 and 1985, in contrast to the decline recorded between 1985 and 1990. This reduction was accounted for by unemployed persons seeking a new job, whose numbers fell by a total of 20 per cent, with male unemployment falling by 39 per cent and female by only three per cent.

166. During this same period the number of unemployed persons seeking their first job rose by 43 per cent, with increases of 13 per cent among men and 46 per cent among women (see tables XIII to XVI, annex 1).*/

167. Within the framework of the Government's socio-economic development policy for 1989-1992 adopted in accordance with the guidelines of the Regional Development Plan and, more specifically, with reference to Community support for 1990-1993, the main lines of the strategy focused on the structural development and modernization of Portugal's economy and society, bearing in mind the need to preserve the essential balance between the human and cultural factors and the basically economic measures and taking as the frame of reference the Community space and the requirements of greater economic and social cohesion at the European level.

168. In the area of employment policy, the main medium-term objectives (1982-1992) were to continue the policy of creating jobs to reduce unemployment and to

ut to a minimum the many existing imbalances in the labour market. The eduction of the imbalances affecting the regions and the most vulnerable opulation groups was thus the priority objective of employment policy.

69. In addition, the need to modernize and restructure many sectors of economic activity which were important vehicles for the global medium-term strategy strengthened the need to give priority to education/training and training/employment policies, and this required close coordination at the institutional and sectoral levels and with the Regional Plan.

170. The following were the main employment measures:

(a) Improvement of the administration of labour, in particular with regard to the upgrading of the employment centres;

(b) Support for job creation at the local level and for self-employment;

(c) Institutional coordination of development agents with a view to taking advantage of the local resources of each region;

(d) Sectoral modernization and development programmes (production and social sectors);

(e) Incorporation of the sectoral restructuring processes in the integrated development programmes and operations;

(f) Employment programmes for young people and the long-term unemployed; temporary programmes for the seasonally unemployed.

171. In turn, the vocational training objectives focused basically on :

(a) Acquisition by potential workers of the qualifications needed for integration in working life;

(b) Improvement of the qualifications of existing members of the active population both by intensifying training activities for employed persons and by providing training for the currently unemployed population groups;

(c) The possibility of retraining workers to do different jobs, when this is made necessary by the sectoral restructuring and the modernization policy.

Achievement of these objectives presupposes the existence of a comprehensive frame of reference based on professional knowledge of the manpower needs at the national, sectoral and regional levels and on the coordination and harmonization of education and the various vocational training schemes with a view to establishing conditions for the extension and intensification of continuing training. The following are some of the fundamental focuses for the development of this strategy:

- Enhancing the role of enterprises, in particular small and medium-sized ones, as places where training can be provided;

- The back-up role of the State with respect to the most disadvantaged population groups, the industrially less-developed regions, and the more long-term types of training;

- A greater commitment on the part of the social partners to determining the main principles of vocational guidance and training;

- Greater awareness on the part of heads of enterprises of the role of training in the modernization and development process.

172. Furthermore, special attention is always given to the development of vocational training and employment programmes for specific population groups, especially young people, women (in particular in regions of higher unemployment), the disabled, the long-term unemployed, and workers in sectors undergoing conversion.

173. Three kinds of measure have been introduced in the specific sphere of employment policy:

(a) "Active" measures dealing in particular with the functioning of the public employment services, the development of vocational training activities and support programmes for job creation, and the implementation of specific measures for young people, the disabled and the long-term unemployed;

(b) "Passive" measures dealing with income maintenance for persons who have lost their jobs or are in danger of losing them, such as measures connected with the unemployment benefit system and early retirement;

(c) Laws and regulations affecting the legal framework of employment.

174. In 1991, within the framework of the Economic and Social Accord concluded between the Government and the social partners, objectives were to be defined and several measures adopted on matters of great importance for employment, work and social policy. They were to include the establishment of the legal framework of vocational training and of training on the job, as well as the establishment of the bases of an agreement on vocational training policy, the objectives of which would be improvement of the quality and productivity of labour and development of occupational mobility.

175. Several measures concerning the duration and organization of working hours were also adopted with a view to introducing shorter working hours and work schedules better adapted to the requirements of the competitive operation of enterprises, and securing ever increasing productivity gains while still taking account of the protection of workers' rights.

176. Another text published in 1991 set out the main principles of the protection of minors at work, including the establishment of 15 years as the minimum working age.

177. Following the Economic and Social Accord, other legal texts were drafted to deal with other equally important areas, i.e. social protection and security (reorganization of the social security system, legal regulations on early retirement, and social protection measures applicable to restructured sectors), workplace hygiene and safety (drafting of a framework law and creation of a

machinery for prevention of occupational hazards), regulation of labour justice and collective bargaining.

178. Lastly, attention must be drawn to the importance accorded to the development of the social dialogue, through discussion and negotiation in policy formulation, more widespread use of collective bargaining, and measures to encourage the social dialogue within enterprises.

Labour market

179. As already stated, it is the function of the Institute of Employment and Vocational Training (IEFP) to promote, through employment and training programmes, measures such as the placement of workers in suitable, productive, well remunerated and freely chosen jobs with a view to better organization of the labour market. In this connection, the Institute has powers which enable it to provide a free service including placement, occupational information about the labour market, guidance, and vocational training and retraining to support the geographical and occupational mobility of workers and their families, and to provide, in collaboration with the relevant bodies, information, registration, selection and possibly training for persons who wish to emigrate.

180. An important role is played by the employment centres operated by the Institute's local executive offices. They are located throughout the country (and include two joint employment and vocational centres); the following are their basic functions:

(a) To register applicants for jobs either in Portugal or abroad, receive job offers and attempt to match applicants to jobs by encouraging any necessary adjustments, in particular mobility;

(b) To make specific efforts to place disabled persons and other special groups of applicants;

(c) To collect and disseminate all information about the situation and prospects of the labour market;

(d) To provide occupational information and guidance services, in particular for young people, in close collaboration with teaching institutions and local bodies performing any kind of function in this area;

(e) To stimulate and supervise, by means of dissemination of information, consultation and support, local initiatives for the creation and maintenance of jobs;

(f) To promote economic initiatives for the placement of groups of applicants by means of new investment projects or better utilization of existing production capacity.

181. In order to improve the processing of the statistical information gathered by the employment centres and compare it with data produced by family surveys (employment survey of the National Statistical Institute) and with the data provided by international organizations, the following measures have been taken:

- Elimination of seasonal work (dessazonalização) in the case of unemployed persons seeking work and ensured unemployed persons;

- Registered-unemployed project;

- Survey of the vocational training needs of 10,000 enterprises in all sectors except for the civil service;

- Use by the IEFP employment centres of the standard statistical concepts adopted at the thirteenth International Conference of ILO on labour statistics, held in October 1982;

- Production of monthly statistics on employment, unemployment and unemployment with benefits.

Vocational training and guidance

182. Decree-Law No. 401/91 of 16 October which establishes a legal framework of vocational training, building on Act No. 46/86 of 14 October (the basic law of the education system), defines vocational training as a process designed to achieve the integration of young people and adults in the labour market and to provide training for the exercise of an occupation.

183. Vocational training seeks to promote:

- Socio-occupational integration;

- Matching of workers to jobs;

- Equality of opportunity;

- Portugal's socio-economic modernization and development.

Vocational training is promoted and funded by the State in collaboration with employers', trade-union and other organizations.

184. Decree-Law No. 405/91, also of 16 October, establishes the legal regulations for vocational training in the framework of the labour market. This vocational training is targeted specifically either at employed persons or at unemployed persons.

185. As already stated, it is the function of the Institute of Employment and Vocational Training to promote the vocational training of workers, in particular young people leaving the education system and other more disadvantaged social groups. In 1991 the Institute had for this purpose:

- Eighteen vocational training centres;

- Three joint employment and vocational centres;

- Twenty-seven shared-management vocational training centres; these are specialized centres operating on the basis of agreements between the Institute and a number of representatives of the social partners.

186. In addition to the IEFP centres, there is a vocational training structure which operates under the auspices of other ministries (education, agriculture, industry, etc.).

187. The funds currently available to promote the vocational training of young people and workers requiring a course of training or retraining, are insufficient but they are not, however, fully used.

188. Decree-Law No. 165/85 of 16 May, concerning vocational training, outlines the legal framework of one of the main principles of vocational training. This is the obligation of the State to provide technical, teaching and financial support for any public-sector, cooperative or private enterprise which undertakes or could undertake vocational training activities. The legislation on collaborative vocational training specifies, as one form which such support can take, the conclusion of protocols and agreements; the protocols are designed to deal with the permanent vocational training needs and lead to the establishment of permanent general centres, while the agreements are concerned with specific vocational training activities.

189. By moving from piecemeal action to the adoption of budgets - programmes such as planning methodology - this legislation marks a change of attitude prompted by the specific goal of providing a response to the perceived need for an aggressive policy in which vocational training is regarded as a tool of development and not as a mere reaction to the situation. It is also in keeping with the requirements of the European Social Fund, which aims at the introduction of measures of adaptation to the needs and evolution of economies with an excess of unqualified manpower and/or a serious qualifications deficit.

190. As part of the implementation of the Economic and Social Accord signed on 19 October 1990 by the Government and the social partners, these same parties concluded, in the Standing Council for Social Dialogue, a specific agreement on vocational training, emphasizing its importance as a tool for development of the human resources essential to the functioning and modernization of enterprises.

191. This vocational training agreement has the following goals:

(a) Promotion of training increasingly better adapted to the country's needs;

(b) Improvement of teachers' qualifications and organizational efficiency;

(c) Strengthening of the role of the social partners in this area;

(d) Establishment of the necessary conditions to make the existing organizations more effective.

192. The agreement covers six areas:

- Improved coordination between training and the workplace;

- Integration of the most disadvantaged groups in the labour market;

- Intensification of continuous training;

- A social dialogue in the definition, development and implementation of employment and training policies;

- Development of research and standardization of employment and training statistics;

- Cooperation in the framework of the European Communities.

193. Vocational training activities, either in the education system or in the workplace, have been the subject of legal regulation (Decree-Law No. 401/91 of 16 October). The specific legal arrangements for vocational training in the workplace have also been regulated (Decree-Law No. 405/91 of 16 October). For the development of the apprenticeship scheme, the aim so far has been to increase the availability of training in a broad range of occupations; Orders covering 23 occupations have already been approved. The possibilities of entering and leaving the system have also been expanded, as is clear from table XVII, annex 1.*/ In 1991 the system catered for 13,139 young people and 3,750 enterprises.

194. The employment centres are required to provide information and guidance services, in particular for young people, in close collaboration with the education institutions and local bodies carrying out any kind of activity in this area. These services are designed to provide guidance to young people and adults, either individually or in groups. Underlying this activity is a concept of guidance as an integral and continuous process designed to provide young people and adults with a better knowledge of themselves, and to develop their capacity to understand and transform their social, school and work environments so that they can all determine their own direction and build their own identity.

195. The counsellors provide guidance for young people either in education institutions or in employment centres throughout the country, since the regional services are supported in technical and scientific matters by the central services which, as a general rule, are responsible for the coordination of these activities. In the employment centres, it is common for the counsellors to have to deal with young people of different age groups and levels of education; this means that the activities must be diversified: work with groups or individuals, and use of guidance programmes or psychological tests.

196. There has been a significant increase in the number of persons seeking their first job, and this situation is one of the major current concerns of the Institute, which is trying to provide adequate responses, subject to the limitations imposed by the economic conditions. Young people seeking their first job usually have problems of social integration and require prompt and effective intervention to prevent or reduce the risks inherent in their situation; young people seeking vocational training are given guidance individually or in groups with a view to their enrolment in a vocational training activity under the auspices either of the Institute or of another body.

197. In their work with adults, which is based on the same underlying principle, the counsellors are particularly concerned with persons seeking vocational training, further training or retraining for a different occupation with the aim of improving their work prospects.

Protection against arbitrary dismissal

198. The provisions on protection against arbitrary dismissal are contained in the regulations annexed to Decree-Law No. 64-A/89 of 27 February.

199. The dismissal of an individual without just cause and/or for political or ideological reasons is prohibited. Just cause is legally defined as culpable behaviour on the part of the worker which, owing to its seriousness and consequences, renders the labour relationship immediately and practically unviable; the law itself specifies certain types of behaviour which may constitute just cause.

200. Any dismissal must be preceded by a written disciplinary procedure, which is much simplified in the case of small enterprises; the note of culpability (nota de culpa) which initiates the procedure must contain a description, supported by evidence, of the allegations against the worker and a specific statement of the employer's intention to dismiss him. The worker is entitled to reply and bring to the procedure all the matters which he regards as important and/or to request that all the requirements of adequate proof should be observed; when necessary, the views of the works council shall also be heard. If the final decision is in favour of dismissal, the tribunal may, at the worker's request, order suspension of enforcement until the rebuttal procedure (processo de impugnação) has produced a decision.

201. Decree-Law No. 402/91 of 16 October introduces amendments to Decree-Law No. 64-A/89 of 27 February, in particular on the regulations governing the termination of the work contract owing to the unsuitability of the worker. This legislation adds to the list of the types of behaviour which may constitute just cause, situations in which the worker jeopardizes production or its quality, or places at risk his own safety and health and/or the safety and health or other workers. However, termination of the work contract is possible only: (1) if changes have been made in the job; (2) if the employer has given adequate training in the changes introduced; (3) if the worker has had sufficient time to adapt to the changes; (4) if the employer cannot find another suitable post for the worker; and (5) if the employer offers the worker adequate compensation.

202. Termination of a work contract may also result from the elimination of jobs for actual structural, technological or temporary reasons within the enterprise, regardless of whether the dismissal is collective.

203. Any decision on collective dismissal must be communicated to the workers' organizations in the enterprise, with a statement of the economic, financial or even technical reasons justifying the decision, and an indication of the workers affected by the dismissal and the criteria used in their selection.

204. The dismissal decision notified by the enterprise shall be subject to an information and negotiation procedure supervised by the competent department of the Ministry of Employment and Vocational Training, conducted by the employer and the workers' organizations in the enterprise, with a view to keeping the adverse effects of the proposed measure to an absolute minimum.

205. In the case of the elimination of jobs in situations other than collective dismissal, there must also be a justification of the reasons invoked, followed

by a communication to the workers' representatives. In either case, a court review of the employer's decision may be requested.

206. The dismissal regulations described above do not, however, apply to domestic service contracts or to work in ports or on board ships, which are covered by separate regulations. In the case of domestic service contracts, the dismissal procedure is much simplified, and the legislation specifies culpable behaviour inherent in the activity (Decree-Law No. 508/80 of 21 October). The regulations governing port workers, including their dismissal, are the general regulations governing individual work contracts in all cases not covered by specific legislation (art. 29 of Decree-Law No. 151/90 of 15 May). With regard to work on board ships (Decree-Law No. 74/73 of 1 March), the legislation specifies a range of culpable behaviour specific to the sector which may entail dismissal with just cause, and the procedure is much simplified.

207. Act No. 68/79 of 9 October contains special regulations for the protection of workers' representatives against dismissal, including members of the managerial staff and professional associations, trade-union representatives, and members of works councils and sub-councils and coordinating committees.

208. When disciplinary action has been initiated by the employer, and the worker concerned and the works council oppose dismissal - whether it affects a member of the council or the trade union or a member of the managerial staff or a trade-union representative - dismissal can be enforced only by means of legal action.

209. Disciplinary matters affecting civil servants and other employees of the central and regional administration, public institutions, public funds and local authorities are governed by a separate statute which provides for dismissal in the event of any misconduct rendering the work relationship unviable.

210. Dismissal and the other sanctions provided by this statute cannot take effect until a complex disciplinary procedure has been completed; this procedure must comply with the constitutional principle that "any person subject to a disciplinary procedure shall have the right to be heard and to defend himself" (art. 269, para. 3).

Protection against unemployment

211. There are work programmes designed to provide employment for unemployed persons in community projects for a fixed period of time, thus enabling them to acquire work experience which will make it easier for them to find permanent employment in the future. The following programmes fall within this group:

(a) Support for the long-term unemployed (Regulatory Order of 19 June 1986, series II); support for the long-term unemployed not in receipt of unemployment benefit working in community projects;

(b) Seasonal work programmes (Regulatory Orders No. 86/85 of 2 September, No. 76/86 of 29 August and No. 31/90 of 10 May;

(c) Work programme for persons entitled to unemployment benefit (Decree-Law No. 79-A/89 of 13 March; Order No. 247/85 of 2 May).

These programmes are organized by non-profit organizations for the benefit of the community; the only remuneration for this work is the cost of travel and food.

212. The main innovations affecting the right to work and the development of human resources include:

- The main orientations of the 1989-1992 Plan and the Regional Development Plan, especially with regard to human resources development;

- The Community support framework resulting from the negotiation of the Regional Development Plan for 1990-1993 and the social plans formulated in accordance with the objectives set out in points 3 and 4 of the regulations on Community Structural Funds;

- The results of the social dialogue, in particular the Economic and Social Accord mentioned below.

213. The main principles of the employment and vocational training strategy are defined in the planning documents mentioned above. Under this strategy, a series of employment programmes were formulated and introduced in 1990; they are designed to secure a widespread improvement in the training and qualifications of the labour force and thus expand the opportunities for exercise of the right to work and help to attain the economic goals.

214. There are 14 such programmes, and the aim was to cater for some 800,000 persons by the end of 1993, with a view to developing human resources in general and improving the qualifications of the working population in particular, and thus to help to increase employment and productivity.

A. Positive action for the employment of women

215. There is no denying the increase in the participation of women in the country's labour market. However, the nature of this participation remains substantially different from that of men: women are concentrated in a narrow range of occupations requiring the lowest qualifications, and they take little part in training activities; their qualifications are not fully recognized, the wage differentials between the two sexes are large in several areas, the female unemployment rate is double the male rate, and the jobs held by women are clearly more precarious.

216. Recognizing this situation, the Institute of Employment and Vocational Training has introduced various policy measures and is carrying out a range of activities designed to guarantee women equality of opportunity and treatment. The programmes mentioned in this part of the report contain provisions which seek, by means of preferential treatment, to reverse and compensate for this discrimination in order to make the equality embodied in the legislation a reality.

217. Women who are taking a training course and demonstrate the need to have their dependent children looked after by others so that they can continue their training receive a day-nursery or kindergarden allowance. The amount of this allowance is equal to the expenditure up to a limit of 15,000 escudos and it is

paid to the women throughout their vocational training course in an IEFP training centre (measure adopted in 1988).

218. The facilities of the training centres are gradually being adapted for attendance by women (construction of changing rooms).

219. As the training centres have sleeping accommodation only for boys, since 1990 the cost of lodging away from home has been paid by the Institute (up to a maximum of 15,000 escudos a month), while 12 per cent of the national minimum wage has to be paid by students for lodging in the training centres.

220. To support the various training projects for women, several kinds of informational material, such as brochures, have been produced on the topic of equality of opportunity. In collaboration with the Commission on the Status of Women, an information fact-sheet on traditionally male occupations was issued. In addition, a brochure entitled "Index of male and female occupations" was prepared; this is a very useful tool for the correct designation of occupations; it provides information about the number of women working in various occupations and helps to diversify their occupational options.

221. The frame of reference for the network of officials responsible for the equality of opportunity and treatment of men and women in employment and vocational training is constituted by the principle of equality of opportunity and treatment, the national legislation and the international guidelines and standards; one function of these officials is to bring the activities of the Institute into line with such provisions and to promote the employment and occupational development of women.

222. Within the framework of the Institute's activities, the functions of the network of officials responsible for equality, established in 1986, are as follows:

(a) To promote the application of the legal provisions and standards concerning equality in employment and vocational training;

(b) To propose specific and innovative measures to achieve equality, in particular "positive action" measures;

(c) To propose the strategies, methods of intervention and practical tools needed for the implementation and monitoring of the programmes and activities carried out in this area;

(d) To endeavour to ensure that account is taken of the objective of equality in the assessment of all employment measures;

(e) To help to ensure that the principle of equality is respected in the Institute's personnel policy - recruitment, promotion, access to managerial posts, training, etc.;

(f) To participate in the training of the Institute's staff in matters of equality by formulating the programmatic content of such training, increasing the awareness of instructors and training the senior officials, middle-management and other staff of the Institute;

(g) To disseminate information and publicize the difficulties and successes in the campaign for equality, with a view to obtaining the commitment of the various organizations to the measures designed to secure respect for the principle of equality and to the battle against discrimination.

223. Since 1986, with the support of the European Social Fund, the Institute has implemented several pilot projects on the training of women. These projects are innovative in that they are concerned with areas in which women are still under-represented as well as by reason of their organization and content.

224. The first project (1986-1988) was concerned with the training of 36 girls in traditionally male occupations (carpenters, electricians, plumbers, house painters, lathe-operators); a second project provided training in construction occupations for 27 young people from a run-down district of Lisbon; the aim was to create a local jobs initiative which would be supported by orders from the Lisbon Municipal Council for the restoration of the urban environment. Both projects were concerned to make young people, employers and the Institute's staff more aware of the problems of equality of opportunity.

225. For 1989, the following projects can be cited (some already completed and others still in operation):

(a) Training and placement of women locksmiths; this project catered for 10 girls, six of whom became qualified; all 10 girls were found suitable jobs in their speciality;

(b) Training of women to create enterprises;

(c) Support for the implementation and development of women's initiatives;

(d) Recruitment of women as assistant instructors.

226. Two operational programmes for women were devised within the context of the reform of the Community Structural Funds: one was for long-term unemployed adult women and the other for young women. These programmes were designed to promote equality of opportunity and treatment for women in the labour market and to improve their participation in working life and their occupational status.

227. The programme Integration of young people in the labour market (IJVOP) is designed to provide young people aged 18 to 25 with training to make it easier for them to find jobs and, at the same time, to offer employers well-qualified candidates for the available vacancies.

228. The aim of the programme for training and placement of managerial staff, which has its legal basis in Decree-Law No. 314/80 of 25 September, is to enable recently qualified persons to find their first job and, at the same time, to provide small and medium-sized enterprises with technical staff who have a good basic training but no work experience. This programme is a joint undertaking of IEFP and the Institute for Support of Small and Medium-sized Enterprises (IAPEMI).

229. A joint programme of IEFP and the Institute of the Cooperative Sector (INSCOOP) entitled Employment programme for technical staff in cooperatives

(COOPEMPREGO) is designed to provide recently qualified persons with experience to enable them to obtain their first job and, on a gradual basis, to enable cooperatives to make good their shortages of qualified staff in the areas of technology, organization and management (Decree-Law No. 48/86 of 16 June).

230. This programme of support for the further training of persons who have already received some vocational training, which has its legal basis in Regulatory Orders No. 109/86 of 12 December and No. 47/87 of 6 May, is designed to supplement in the workplace the training received in the direct- or shared-management centres and to encourage the enterprises concerned to create jobs.

231. Protection against unemployment is regulated by Decree-Law No. 79-A/89 of 13 March. When this Decree entered into force, it accorded entitlement to unemployment benefit to persons covered by social security who, in addition to the general conditions which must be met by all unemployed persons (involuntary unemployment, occupational aptitude and availability), have worked at least 540 days for an employer and have had their remuneration recorded for a period of 24 months immediately preceding the date on which they become unemployed.

232. Attention must be drawn to the reservation entered at the time of ratification of ILO Convention No. 96 concerning Fee-Charging Employment Agencies (Revised), 1949, section III on regulation of fee-charging employment agencies (Decree No. 68/84 of 17 October); reasons connected with the employment policy and circumstances at the time prompted the revocation of part II of the Convention - on the gradual elimination of fee-charging employment agencies conducted with a view to profit (Decree-Law No. 100/80 of 9 October).

233. Lastly, there is Decree-Law No. 225/87 of 5 July and Orders Nos. 474 and 475 of 5 July, which introduce special measures to encourage unemployed workers residing in concelhos having a high unemployment rate (defined in the law as concelhos "of origin") to enter into work contracts of unspecified duration or of a minimum duration of two years in another concelho regarded as having full employment (defined in the law as concelhos "of destination").

234. The following kinds of subsidy are envisaged:

(a) Monetary:

(i) Travel subsidy (travel expenses of the worker and his family and cost of the insured carriage of furniture and baggage);

(ii) Removal subsidy (contribution to the cost of installation of persons and goods);

(iii) Lodging subsidy (temporary contribution to the cost of renting or purchase of housing);

(b) Non-monetary:

(i) Guarantee of school transfers for children;

(ii) Placement of the spouse, in the case of a civil servant or employee of the central or local administration, in the concelho of destination or in a neighbouring concelho.

235. Up till now these incentives to geographical mobility have not produced any significant results, owing either to the contractual terms of the national or regional compensation offered or to the lack of vacancies in the concelhos of destination.

236. The information contained in tables XVIII to XX in annex 1 */ concerning population, employment, unemployment and vocational training, is based on data provided by the National Statistical Institute, by the Organization for Economic Cooperation and Development, and by the Institute of Employment and Vocational Training.

Article 7

Remuneration

237. Article 59, paragraph 1 (a), of the Portuguese Constitution states that "all workers, regardless of their age, sex, race, nationality, place of origin, religion and political or ideological convictions, shall be entitled to remuneration for their work according to its quantity, nature and quality, according to the principle of equal pay for equal work, so as to secure to them an appropriate livelihood".

238. The provision of the Covenant to the effect that women shall be "guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work" (art. 7, para. (a) (i)) is expressly incorporated in Decree-Law No. 392/79 of 20 September.

239. Furthermore, article 1 of Decree-Law No. 49/408 of 24 November 1969, which established the regulations governing the individual work contract, stipulates that remuneration is an essential element of the concept of work contract:

> "a work contract is a contract by which a person undertakes, in return for payment, to make his mental or physical labour available to another person under that person's authority and direction".

240. According to article 59, paragraph 2 (a) of the Constitution, it is the duty of the State to fix and keep up to date a national minimum wage, having regard among other factors to workers' needs, the increase in the cost of living, the degree of development of the forces of production, economic and financial stability and the formation of capital for development.

241. The national minimum wage was introduced in Portugal in May 1974. The legal text on the national minimum wage (Decree-Law No. 69-A/87 of 9 February), the amount of which is updated on 1 January each year, expressly incorporated the principle of equal pay for equal work.

242. Initially, the minimum wage applied only to workers aged 20 and over in the non-agricultural sector (except for domestic service) working for an employer in an enterprise employing more than five people.

243. However, with the passage of time, the minimum wage has been extended to other workers in the system:

- Younger workers (except for certain reductions for the youngest age groups);

- Workers in enterprises employing fewer than five people (although between 1975 and 1977 certain enterprises were granted the possibility of exemption from the minimum wage when experiencing economic difficulties verified by the competent ministry);

- Agricultural and domestic workers (at present, only the minimum wage for domestic service is lower than the minimum in the non-agricultural sector; the minimum wage for agriculture and the non-agricultural sector were standardized in 1991).

244. Since 1978 the legal regulations governing the minimum wage have been extended to all wage-earners. The minimum wage was established and is periodically updated by decree-law legislation which all employers must observe. The mandatory annual updating of the minimum wage was enacted in Decree-Law No. 16/79 of 25 May (see tables I to III, annex 2).*/ The current minimum-wage legislation does not set any rigid criteria for the updating.

245. In practice, the procedure originally followed for revisions of the minimum wage was to seek the technical advice of the competent services of the Ministry of Labour in the form of alternative figures based inter alia on the criteria contained in ILO Convention No. 131. The final decision was taken by the Government after consultation of the employers' and workers' organizations by the Ministry of Labour.

246. In 1980 an Interministerial Working Group was established with the remit of producing an assessment of the economic and social implications of the alternatives under consideration in each revision of the minimum wage. Since the creation in 1984 of the Standing Council for Social Dialogue, a tripartite consultative body, this assessment must be submitted to the Council for consideration by the social partners.

247. The minimum wage set in 1991 resulted from the Economic and Social Accord negotiated in the Standing Council. The Decree-Law on the 1991 revision states that "in accordance with the principles of equity and social cohesion which have been taken into account, it is right that minimum incomes, in particular minimum wages, should increase at a faster rate than general average wages".

248. The principles which guide incomes policy, in particular wages policy, are established by the Government in accordance with the overall strategy of the annual and medium-term plans.

249. In 1991 and 1992, as in 1987 and 1988, central incomes-policy agreements were negotiated in the Standing Council. The wages-policy guidelines were established in accordance with these agreements.

250. However, it is the provisions of collective labour agreements (Decree-Law No. 519-C/79 of 29 December, abrogated by Decree-Law No. 87/89 of 23 March), which cover the collective regulation of labour in a single enterprise, several enterprises or a whole sector, provide the foundation for the fixing of wages.

251. According to estimates, in March 1990 approximately 87.1 per cent of all the workers covered by collective bargaining were subject to a collective labour contract (see table I, annex 3 */ and the following table):

Percentages of workers for all kinds of labour regulation

	1990	1991	1992
Total AE	7.9	7.9	7.4
Total ACT	4.4	4.0	4.0
Total CCT	83.3	83.7	84.0
Total PRT	4.4	4.4	4.6
TOTAL	100.0	100.0	100.0

Note: AE = enterprise agreements
ACT = collective labour agreements
CCT = collective labour contracts
PRT = labour regulation orders

252. The rate of inflation is the main criterion for updating wages in negotiations at the sectoral and enterprise levels.

253. In 1987, 1988 and 1991 the process of wage negotiation was shifted to a more global level; contractual agreements on incomes policy were to be concluded in accordance with the guidelines on the increase of nominal wages established in the collective labour regulation instruments, themselves based on the annual and quarterly limits set for inflation, taking into account productivity increases and the situation of enterprises and sectors. These three annual agreements were concluded in the Standing Council for Social Dialogue. The content of the 1991 Economic and Social Accord was broader than that of the preceding framework agreements in that it also established the nominal changes in the national minimum wage and social benefits, as well as dealing with major labour legislation and a vocational training agreement.

254. Intervention by the State in the wage regulation process, which had been extensive up to the end of the 1970s, has declined considerably, especially since the second half of the 1980s, and has been limited in recent years to:

- Updating the national minimum wage (done in 1991 within the framework of the Economic and Social Accord);

- Setting the wages of workers in the civil service and negotiating the levels in public enterprises;

- The issue of collective labour regulation orders and extension orders when the parties do not reach agreement or if no employers' and/or trade-union organizations exist. This type of administrative State intervention declined sharply at the end of the 1980s and beginning of the 1990s, especially in the case of collective labour

regulation agreements, which in 1990 covered only about four per cent of the workers subject to collective labour regulation instruments;

- The production of forecasts and the establishment of targets in accordance with the macroeconomic principles which serve as the main basis for the debates in the Standing Council and for the determination of contractual incomes policy.

255. There are other administrative methods of establishing labour conditions (including remuneration) in addition to collective bargaining:

- Extension orders (portarias de extensão), the main purpose of which is to extend the scope of a collective agreement to workers and employers excluded from its original scope since they were not members of the contracting trade-union and employers' associations, or to workers and employers having no representative bodies who, although belonging to the categories covered by the collective agreement, are located outside its geographical scope although subject to the same economic and social conditions;

- Labour regulation orders applicable when there are no trade-union or employers' associations or when one of the parties consistently refuses to negotiate or clearly engages in time-wasting tactics which may impede the normal conduct of the negotiation process.

256. In addition to all these collective regulation mechanisms there are arbitration awards, which according to the law have the same legal effects as collective agreements, and the instruments of accession to the conventions mentioned above.

257. The available statistical data show that almost all (nearly 90 per cent) of persons working for an employer in the private sector or for a public-sector enterprise are covered by collective bargaining.

258. However, there is nothing to prevent workers from concluding individual work contracts with employers which establish higher remuneration than provided for in the collective regulation instruments.

259. Civil servants, although enjoying the right of collective bargaining, are subject to special regulations established in Decree-Law No. 45-A/84 of 3 February, article 5 of which states:

"1. Civil servants shall have the right of collective bargaining on their labour conditions;

2. Agreements negotiated in this way, which have the status of recommendations, do not constitute collective agreements or contracts and do not have, of themselves, any legal effect."

Generally speaking, therefore, the wages of civil servants are established every year by decree law, although this procedure may be preceded by collective bargaining.

260. According to official statistics, the wage differential, calculated on the basis of the monthly increases of persons working full-time for an employer, remained constant throughout 1989 and 1990 (28.8 and 28.3 per cent respectively).

261. It must be stressed that, while the wage differential between men and women managers was 24.8 per cent in 1989 and 19 per cent in 1990, in the case of apprentices it was only 4.3 per cent in 1989 and 4.7 per cent in 1990.

262. It is true that the wage differential between men and women does not necessarily mean wage discrimination and that this differential can be justified by such factors as:

- The late entry of women into the labour market;
- The poorer vocational training and qualifications of women;
- The higher rate of absenteeism of women workers owing to the difficulties of reconciling working life with family life, which result in more frequent unjustified absences - with implications for remuneration, merit bonuses, etc.;
- Prohibition on night work by women, etc.

263. The Government has introduced measures to provide women with better vocational training, both by encouraging the creation of jobs for women or their self-employment and by furnishing financial support for the recruitment of women in occupations with a strong male tradition.

264. The vocational training of women, especially the long-term unemployed, has received a boost from the operational programmes of the European Social Fund.

265. The measures of support for the most disadvantaged families, in particular women workers with children who usually have most difficulty in reconciling working and family life, include the establishment of child-minding arrangements. For example, the Education Development Programme for Portugal (PRODEP) 4/ proposed the following programme:

- The attainment, in 1993, of a rate of 90 per cent for facilities for taking care of five-year-olds;
- The attainment, in 1993, of a rate of 50 per cent for facilities for children aged three to four;
- In order to give effect to these proposals, without prejudice to the expansion of the public network of preschool education by the Ministry of Education and the local authorities, efforts have been made to step up the establishment of private kindergardens, in particular by private self-help groups, private education institutions and cooperatives, and to diversify the existing facilities - kindergardens, day-nurseries and crèches;
- The Commission responsible for studying the expansion of the preschool education network envisages covering 50 per cent of

children aged three to six in all districts, in order to correct the existing imbalances;

- The annual rate of cover of three year olds is seven per cent, but the short-term rates have not yet been established;

- The child-minding facilities in enterprises have seen their relative importance decline in recent years;

- However, enterprises are encouraged to make funds available for social purposes;

- Persons who have children and are taking training courses, as noted above, receive a day-nursery or kindergarden grant equal to their expenditure for this purpose, up to a maximum of 15,000 escudos, which is available throughout their period of vocational training in the centres of the Institute of Employment and Vocational Training.

266. The studies designed to provide a better understanding of wage differentials between men and women are not exhaustive, owing not only to the magnitude of the subject but also to the difficulty of establishing parameters for determining the equal value of work for the purposes of equal remuneration.

267. In addition to considering all complaints, when necessary the Commission on Equality in Employment (CITE) also arranges meetings with trade-union representatives.

268. CITE opinions are not binding but they do have an instructional effect in that they provide information on the application of the legislation and, in many cases, lead to the correction of the situation giving rise to the complaint.

269. CITE has examined several provisions of collective contracts which not only described as "female" certain occupations and given levels of qualification but also imposed, at those levels, very low wages which might constitute discrimination. As part of this work, technical staff of CITE visited several enterprises of the sectors in question, in various parts of the country, and prepared a report describing the problems.

270. In addition to these basic activities, CITE makes a systematic analysis of all collective labour contracts with a view to identifying formal discrimination ("female" occupations) and other facts relevant to the protection of women's work.

271. There is no information available about the occupational distribution of income (see table V, annex 2,*/ in conjunction with wage rates in Portugal during the same period in table VI, annex 1,*/ and with data on the distribution of wages (increases) for March each year, by quintis of all full-time workers and by the Gini concentration coefficient in table VII, annex 1.*/ See also tables VIII to X, annex 2).*/

272. Article 82, paragraph 2, of the law on individual labour contracts states that "remuneration includes the basic wage and any other regular and periodic payments made either directly or indirectly, in cash or in kind".

273. Thus, apart from the basic wage and payment for overtime actually worked, the law does not provide for any other payment. Nevertheless, the collective agreements and the orders often make provision for other benefits such as:

(a) Holiday grants;

(b) Christmas bonuses (known as the thirteenth month);

(c) Food subsidy;

(d) Productivity and merit awards;

(e) Payment for special work;

(f) Night-work supplement;

(g) Payment for working on the weekly rest day or during leave periods;

(h) Shift-work supplement;

(i) Hazard subsidy (for dangerous work);

(j) Isolation subsidy (for work in an isolated place);

(k) Installation grant (under the geographic mobility programmes);

(l) Diuturnidades (additional payment for length of service);

(m) Housing grant;

(n) Integrity bonuses (for workers with responsibilities for financial disbursements and collections);

(o) Commissions (paid on sales).

274. Figures on the movement of wage levels will be found in table XI, annex 2. */

275. In addition to the constitutional principles on the criteria of equality, including the principle of equal pay for equal work, and the enactment of this principle in Decree-Law No. 69-A/87 of 9 February guaranteeing minimum wages, the law also stipulates non-discrimination on the grounds of sex. Article 3, paragraph 1, of Decree-Law No. 392/79 of 20 September states that the right to work entails absolute non-discrimination on the basis of sex, either directly or indirectly, or of civil status or family situation, and it guarantees women access to all jobs, occupations and professions.

276. It was at a later stage that equality of pay for all workers for equal work, or work of equal value, performed in the same enterprise was embodied in law and that all the clauses of a collective labour contract prescribing lower remuneration for women were deemed null and void.

277. Foreign workers are also granted equality of treatment by the Constitution and the law: according to article 15 of the Constitution, all foreigners staying

or residing in Portugal shall enjoy the same rights and be subject to the same duties as Portuguese citizens; and according to article 2, paragraph 3, of Decree-Law No. 97/77 of 17 March, all foreign workers must be guaranteed equality of treatment with Portuguese workers, including with respect to remuneration and other economic benefits.

278. Portugal recently had to confront a phenomenon which, although in decline, led to unacceptable situations from the legal, social and moral standpoints: the failure by employers to meet their wage obligations to their workers on time. This phenomenon may be due to the serious economic difficulties experienced by some enterprises as a result of the country's overall economic situation. It is rare for non-payment or late payment of wages to be due to fraudulent intentions on the part of employers.

279. The Parliament and the Government were aware of the need to eliminate this kind of situation, which violated the universally accepted principle that remuneration is not merely compensation for work performed but also has a social function of satisfying the workers' personal and family needs, and they passed legislation on this issue in Act No. 17/86 of 14 June, amended by Decree-Law No. 402/91 of 16 October, and in Decree-Law No. 7-A/86 of 14 January. A short summary of these two texts now follows.

280. Some of the solutions envisaged in Decree-Law No. 7-A/86 were implicitly abrogated by Act No. 17/86. The machinery provided therein for dealing with late payment of wages also provided the possibility of unilateral renunciation of the work contract by the worker, and his right to compensation, in similar language to that used subsequently in Act No. 17/86, according to which the payment could be made by the Unemployment Fund for a maximum period of six months, with suspension of the work contract also for a maximum period of six months. In both cases - renunciation or suspension of contract - the worker is treated as an unemployed person for the purposes of unemployment benefit and unemployment social benefits. This Decree-Law prohibits employers from behaving in ways which may block a worker's claim.

281. Act No. 17/86 provides the possibility, in the event of failure to pay wages on time, for workers, individually or in groups, to renounce the work contract or withhold their labour, provided that they give at least 10 days' notice of their intention. The exercise of the right to withhold labour does not break the contractual bond and confers on the worker entitlement to unemployment benefit or to a limited percentage of the unemployment social benefits. Furthermore, workers who exercise this right may take up other paid work without violating the work contract with the employer.

282. When a worker opts for unilateral renunciation of the contract, he is entitled to:

(a) A payment which takes into account his length of service and is equal to one month's pay for each year or part of a year worked, although not less than three months, unless more favourable conditions are provided by the applicable collective contract;

(b) Unemployment benefit or unemployment social benefits in accordance with Decree-Law No. 20/85 of 17 January;

(c) Priority treatment for the purposes of job conversion or vocational training subsidized by official departments already in existence or created in the future.

The fact that a worker opts for suspension or renunciation of the contract does not entail, for him or his family, the loss of any social security entitlement or benefit.

283. The law also provides mechanisms for preventing the blocking of workers' claims against employers by guaranteeing them generous rights and material benefits and by prohibiting certain administrative and legal actions by employers.

284. In addition, all enforcement procedures against a worker suffering verified wage arrears are suspended, as is the enforcement of orders for vacation of an apartment (despejo) on the grounds of non-payment of rent when the non-payment is proved to be due to failure by the employer to pay wages due during the rental period on time. However, in order not to infringe the rights of landlords, the law provides for payment of the outstanding rent by the Unemployment Fund.

285. A declaration that an enterprise has defaulted with respect to the prompt payment of wages to its workers is subject to a special procedure conducted by the Inspector-General of Labour. This declaration is issued by the Ministry of Labour and Social Security and is followed by an enquiry conducted by the Inspector-General of Finances into the economic and financial situation of the enterprise.

286. When it is verified that an enterprise is in arrears with payment of wages, the enterprise is further liable to fines and a declaration of bankruptcy or insolvency by the Attorney-General acting on a properly documented application by two thirds of the enterprise's workers.

Occupational hygiene and safety

287. The Portuguese Constitution guarantees all workers the right to "safe and healthy working conditions" (art. 59, para. 1 (c)). This provision was supplemented by Decree-Law No. 441/91 of 14 November, which established the legal regulations on safety, hygiene and health in the workplace.

288. It must be stressed that this text deals with Portugal's obligations under ILO Convention No. 155 and brings the domestic legislation into line with EEC Directive No. 89/391 concerning measures to promote improvement of the safety and health of workers in the workplace.

289. This Decree-Law provides for the introduction of a system for prevention of occupational hazards in order to give effect to the right mentioned above.

290. The State must encourage the development of a national network for prevention of occupational hazards. Employers are obliged to introduce hazard-prevention measures in the workplace in order to provide effective safeguards for workers.

291. Workers must receive appropriate and sufficient training in safety, hygiene and health in the workplace in accordance with their jobs and functions.

292. The following legal texts on sectoral implementation of these provisions are the most important ones issued since 1985:

- Decree-Law No.479/85 of 13 November specifies the industrial substances, agents and processes involving an actual or potential risk of cancer for occupationally exposed workers;

- Decree-Law No. 243/86 of 20 August approves the general regulations governing occupational safety and hygiene in commercial, office and service establishments;

- Decree-Law No. 310/86 of 23 September specifies safety signs and signals in the workplace not covered by Order No. 434/83 of 15 April;

- Decree-Law No. 28/87 of 14 January sets limits on the marketing and use of asbestos and products containing asbestos (amended by Decree-Law No. 138/88 of 22 April);

- Decree Law No. 72/92 of 28 April brings the domestic legislation into line with EEC Directive No. 86/188 concerning protection of workers against the hazards of exposure to noise, as amended by Decree-Law No. 251/87 of 24 June, which approves the general regulations on noise (amended by Decree-Law No. 292/89 of 2 September);

- Decree-Law No. 280-A/87 of 17 July establishes procedures for the notification of chemical substances and the classification, packaging and labelling of dangerous substances;

- Decree-Law No. 294/88 of 24 August establishes the regulations on the classification, labelling and packaging of pesticides and additives;

- Order No. 736/88 of 10 November approves the regulations on the mandatory certification of agricultural and forestry machinery and equipment;

- Decree-Law No. 273/89 of 21 August approves the regulations on protection of the health or workers against the hazards of exposure to equigranular vinyl chloride in the workplace;

- Decree-Law No. 274/89 of 21 August introduces measures for the protection of the health of workers against the hazards of exposure to lead;

- Decree-Law No. 284/89 of 24 August approves the regulations on protection of the health of workers against the hazards of exposure to asbestos in the workplace;

- Decree-Law No. 348/89 of 12 October provides for the protection of persons exposed to atomic radiation;

- Order No. 1057/89 of 7 December contains enabling legislation for Decree-Law No. 284/89;

- Regulatory Decree No. 9/90 of 19 April regulates the instructions on protection against atomic radiation;

- Decree-Law No. 162/90 of 22 May approves the general regulations on safety and hygiene in mines and quarries.

293. Drawing on statistical data collected by the National Statistical Institute, the following table shows the total numbers of work accidents in 1979, 1980 and 1981:

	1987	1988	1989
Total accidents */	266 569	290 961	304 636
Fatal accidents	287	619	287

*/ Including travel accidents.

Equality of opportunity of promotion

294. Article 13 of the Constitution establishes the principle of equality. Nevertheless, neither the Constitution nor the law contain any provisions on promotion of persons working for an employer.

295. It is in fact through collective bargaining that the regulations concerning managerial staff have been established, for the treatment of promotion and the inclusion of clauses on promotion have become increasingly common in this context.

296. In any event, as already stated several times, it is Decree-Law No. 392/79 of 20 September which gives effect to the equality of opportunity and treatment of men an women in employment. Article 10 states that:

> "Women workers shall be guaranteed, on the same terms as men, the right to pursue a career enabling them to reach the highest level in their occupation."

297. Furthermore, the civil service legislation provides a number of special rules on promotion, which is generally decided on a competitive basis. The legislation defines the main principles governing the selection of civil servants for the central administration, the public institutions and economic coordination bodies (Decree-Law No. 44/84 of 3 February). The aim of these measures is to "evaluate capacities and classify candidates" (art. 3), in accordance with the following principles (art. 4):

- Equality of conditions and opportunity for all candidates;

- Freedom to apply for promotion;

- Timely publication of the methods to be used and supporting evidence required and of the relevant classification programmes and systems;

- Application of objective evaluation methods and criteria;

- Neutrality in the membership of the selection board;

- Right of appeal.

Rest, leisure, limitation of working hours, and paid leave

298. Article 59 of the Constitution guarantees all workers the right to rest, leisure, limitation of working hours, weekly rest days and periodic paid leave. These principles are given effect both in ordinary law and in labour agreements in the form of limits on the hours of work, the establishment of work schedules and the right to a weekly rest day (Decree-Law No. 409/71 of 27 September).

299. All workers are entitled to annual leave of a minimum of 22 working days (Decree-Law No. 397/91 of 16 October).5/

300. All workers are entitled to a weekly rest day which may fall on a day other than Sunday in the case of employees of an enterprise which is exempted from closing on Sunday or for one whole day a week or which has to close or suspend its operations for one day other than Sunday. The same applies to workers required to ensure the continuity of services which cannot be suspended, and to cleaning staff, caretakers and porters.

301. In addition to this mandatory weekly rest day, an additional weekly half or whole day off may be granted - the current practice in almost all sectors.

302. The normal working hours may not exceed eight hours a day or 44 hours a week (Act. No. 2/91 of 17 January); however, in the case of office workers the limit is seven hours a day or 42 hours a week.

303. With regard to child labour, reference must be made to Decree-Law No. 396/91 of 16 October, which stipulates that minors may not work hours prejudicial to their schooling.

304. When increased productivity so allows, these limits on working hours may be reduced; this has already taken place in most sectors on the basis of collective labour agreements or ministerial orders.

305. A collective labour agreement may specify a normal average weekly schedule which, with the addition of two hours a day, must never exceed 50 hours a week or 200 hours a month (Decree-Law No. 398/91 of 16 October).

306. There must be a break of a minimum of one and a maximum of two hours in the normal working day, so that workers do not work more than five hours without a break.

307. As a rule, overtime may not exceed two hours per normal working day or 160 hours a year. However, overtime worked for reasons of force majeure or to

prevent or repair serious damage to the enterprise is not subject to the daily or annual limits mentioned above. When an employee works overtime on a mandatory weekly rest day he is entitled to a compensatory paid day off which must be taken on one of the three following days; when the overtime is worked on some other day and in an enterprise employing more than 10 workers, it confers the right to compensatory paid time off corresponding to 25 per cent of the hours of overtime worked.

308. The period of annual leave is 22 working days. The remuneration for this period may not be lower than the remuneration to which the workers would be entitled if they were not on leave and must be paid before the start of the leave. In addition to this remuneration, workers are entitled to a holiday grant equal to the amount of the remuneration.

309. Workers are paid the same for public holidays as for normal working days.

310. The working hours of each shift of workers in a round-the-clock operation may not exceed the limit on normal working hours established by law or in an agreement.

311. Workers may change shift only after their weekly rest day, which the employer must ensure coincides periodically with Sunday.

312. The other rights of shift-workers are the same as for a normal working schedule.

Article 8

Right to form and join a trade union

313. The freedom of association is established in article 55 of the Portuguese Constitution, which states:

> "1. Workers shall be free to form trade unions, a condition and safeguard for the building of their unity in defence of their rights and interests."

314. It must be stressed that article 11 of the European Convention on Human Rights and article 22 of the International Covenant on Civil and Political Rights, which deal with trade-union rights, are in force in Portugal's domestic legislation.

315. This article of the Constitution, supplemented by trade-union legislation (Decree-Law No. 215-B/75 of 30 April), also stipulates that:

> "In the exercise of the freedom of association, workers shall be guaranteed without discrimination: the freedom to form trade unions at all levels" (para. 2 (a)).

316. The freedom to form trade unions is not subject to any kind of administrative authorization. Workers have the freedom to organize trade unions and adopt rules of procedure for them.

317. Accordingly, the statutes of trade unions, freely adopted by the workers, do not require any ministerial approval and are subject only to verification of their legality, which takes place after their adoption and is a legal procedure. After registering their statutes with the Ministry of Labour, trade unions acquire juridical personality. The statutes must state the criteria governing the affiliation of workers, i.e. the geographical and personal scope of the statutes.

318. The law does not set any limit on the number of trade unions which may exist in each occupation or category or branch of activity. Workers thus enjoy total freedom to form any trade union which they judge necessary for the protection of their rights.

319. The freedom of association, as embodied in the Constitution, includes both the freedom of workers to join the trade union of their choice and the freedom not to do so, for no worker can be compelled to pay contributions to a trade union which he declines to join.

320. These aspects of the freedom of association embodied in the Constitution have been developed in the Trade Union Act, article 37 of which states:

> "Any agreement or act shall be prohibited and considered null and void when its purpose is to:
>
> (a) Make the employment of a worker dependent on his affiliation or non-affiliation to a trade union or to cause him to withdraw from a union of which he is a member;
>
> (b) Allow a worker to be dismissed, transferred or otherwise harmed by reason of his affiliation or non-affiliation to a trade union or his trade-union activities."

321. Foreign workers enjoy, on similar terms as nationals, not only the right to form and join trade unions but also the right to participate in union activities.

322. Apart from the restrictions described below, it must be stressed that trade unions are independent of the employers, the State, religious denominations, political parties and other political associations (art. 57, para. 4, of the Constitution) and that they are forbidden to fund or be funded by such entities (Trade Union Act, art. 6, para. 2).

323. The Constitutional Court, emphasizing the notion of freedom of association already proclaimed in the Constitution, has asserted that "the freedom of association is the antithesis of trade-union monopoly: it does not allow the imposition of single trade-union systems and prohibits the existence of more than one union per category".

324. Since the freedom of association is enjoyed by workers on an individual basis and is not merely a collective class freedom, every worker has complete freedom of decision as to whether to join an existing trade union or take the initiative to form a new one. Furthermore, it is for the trade union itself to choose its organizational model (by sector, by enterprise, etc.) and for its

members to determine, without any kind of outside interference, the occupational category to be covered by the union.

325. According to article 270 of the Constitution, the law may lay down restrictions on the military and security forces on active duty with regard to the exercise of their rights of expression, meeting, demonstration, association and collective petition and on their electoral capacity, as strictly required by their functions.

326. Act No. 29/82, concerning the national defence and the armed forces, was based on these premises. Article 31, after reiterating in its paragraph 1 almost the exact wording of article 270 of the Constitution, lists in the following paragraphs the restrictions on the right to form trade unions. For example, paragraph 6 prohibits membership of trade unions or participation in their activities, and paragraph 11 excludes the military and security forces, the subject of the law, from the scope of the constitutional provisions concerning the rights of workers.

327. However, with regard to the right of members of the public security police to form professional associations, reference is made to the report on the implementation of ILO Convention No. 87 for the period 11 July 1988 to 30 June 1990.

Right of trade unions to form federations

328. In its provisions on the freedom of association the Constitution stipulates "the freedom to set up trade union associations at all levels" (art. 56, para. 2 (a)). The possibility of trade-union federations is also recognized; the Trade Union Act specifies three types of association:

(a) Federation - an association of workers' trade unions in the same occupation or branch of activity;

(b) Union - a regional association of trade unions;

(c) General confederation - a national association of trade unions.

329. The Constitution also recognizes that "trade-union associations shall have the right to establish relations with or to join international trade-union organizations" (art. 57, para. 5).

330. Table I in annex 3 */ shows the number of associations of trade unions in Portugal in 1990 according to their geographical distribution.

Right of trade unions freely to pursue their activities

331. The Constitution states that "associations of trade unions shall be competent to defend and promote the defence of the rights and interests of the workers whom they represent" (art. 51, para. 1). They enjoy important rights for this purpose, including:

(a) The right to participate and take a leading role in the drafting of labour legislation (under the consultation arrangements envisaged in Act No. 16/79 of 26 May). Any violation of this rule shall result in the

declaration of the formal unconstitutionality of any conflicting legislation which is adopted. In Order No. 117/86 of 19 May the Constitutional Court declared the unconstitutionality with general mandatory effect of the regulations contained in decree-law legislation which did not comply with the principle of the participation of workers' representatives in the drafting of labour legislation;

(b) The right of collective bargaining, in the form of the negotiation and conclusion of collective agreements, which the associations exercise as legitimate and exclusive representatives of the workers. The decree-law establishing the regulations governing collective labour relations (Decree-Law No. 591-C1/79 of 29 December) establishes the trade-union monopoly in collective bargaining when it states in article 3 that:

> "The following bodies are the only ones competent to conclude collective labour agreements:
>
> (a) Associations of trade unions
>
> (b) Employers organizations and associations";

(c) The right to participate in the management of social security institutions and other organizations in the protection of the interests of the workers;

(d) The right to participate in the formulation of economic and social plans through participation of representatives of associations of trade unions in the National Planning Council (art. 94, para. 3, of the Constitution);

(e) The right to participate, through representatives of confederations of trade unions, in the Standing Council for Social Dialogue, a consultative body made up of representatives of the workers, employers and the Government, whose functions include consideration of policies of restructuring and socio-economic development and the proposal of means of improving the functioning of the economy (Decree-Law No. 74/84 of 2 March).

332. It must also be stressed that the Portuguese Constitution expressly accords to workers the right to engage in trade-union activity within the enterprise (art. 56, para. 2 (d)) through their representatives (when a trade union exists in the enterprise). Representatives of trade unions enjoy special protection against dismissal, in order that they should not suffer any kind of persecution by reason of the performance of their trade-union duties.

Right to strike

333. The right to strike, which may not be limited by law, is guaranteed by article 58 of the Constitution, which states that it is for the workers to determine the interests to be protected by means of strikes. This provision is supplemented by Act No. 65/77 of 26 August (Strikes Act).

334. The main provisions of this text are listed below:

(a) The right to strike shall not be revoked (art. 1, para. 3);

(b) A decision to strike shall be taken by a trade union or, in certain circumstances, by an assembly of workers (art. 2);

(c) Picketing shall be allowed, subject to the right to work of persons not participating in the strike (art. 4);

(d) At least 48 hours notice of a strike shall be given (art. 5);

(e) The replacement of striking workers by workers not already employed in the enterprise or service where the strike is taking place shall be prohibited (art. 6);

(f) During a strike, the trade unions and the workers shall guarantee continuation of services necessary to meet certain basic social needs (for example, medical, hospital and pharmacy services, power and water supply, posts and telecommunications, etc.). Failure to respect this obligation may result in civil conscription of the workers by the Government under Decree-Law No. 637/74 of 20 November;6/ So far, there has rarely been recourse to this procedure;

(g) Any form of discrimination on the basis of a strike shall be prohibited (art. 10).

Specific restrictions

335. Civil servants and other employees of the Government and public bodies enjoy the right to form and join trade unions and the right to strike on the basis of full equality with all other workers.

336. Both the Trade Union Act and the Strikes Act underline the need for special legislation to regulate these matters with respect to public employees (art. 50 and art. 12 respectively). However, the absence of such legislation has not prevented the recognition of these rights or restricted their exercise.

337. Furthermore, Portugal has ratified ILO Convention No. 151 concerning Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service.

338. In the case of members of the armed forces and the police, article 270 of the Constitution states that:

> "The law may lay down restrictions on the rights of expression, meeting, demonstration, association and collective petition and on the electoral capacity of the permanent members of the military and security forces on active duty, as strictly required by their functions".

339. On the basis of the principles stated in this article of the Constitution, Act. No. 29/82 of 11 December (the National Defence Act) and Act No. 6/90 of 20 February (on the exercise of the rights of members of the public security police) established restrictions inter alia on the exercise of the rights of expression, meeting, demonstration and association of members of the military and security forces. Accordingly, they may not hold trade-union meetings or demonstrations or participate in or join trade unions, or participate in their

activities, except for professional associations having ethical functions. Nor are such persons covered by the constitutional provisions concerning the rights of workers.

340. Article 13 of the Strikes Act also excludes the military and security forces from the scope of the Act.

341. The restrictions on the armed forces contained in the National Defence Act apply not only to members of the military but also to members of the National Republican Guard (GNR) and the Border Guard, which are special military corps having police functions.

342. Members of the criminal investigation police, which is a non-military force, enjoy the right of association and the right to strike on an equal footing with all other public employees. For example, they have formed the Association of Criminal Investigation Officers, and another trade union is also being established.

Article 9

343. In Portugal the right to social security is guaranteed to all citizens by the Constitution. The State has a duty to organize, coordinate and subsidize a unified and decentralized social security system with the participation of trade union associations, other organizations representing the beneficiaries, employers' associations, local authorities and any other entity pursuing or having the same objectives (see table I, annex 4) */.

344. Portugal has ratified the ILO Convention (No. 102) concerning Minimum Standards of Social Security.

345. The organization of the social security system is not prejudicial to the existence of private friendly societies. These private institutions provide assistance to the elderly and to children through agreements with the State under which they undertake to pursue certain objectives in accordance with specified activities, while the State assures them of its support. They are non-profit-making and pursue identical objectives.

346. The difficulties experienced by the Portuguese social security system really reflect the current international context:

- Population trends (fall in the number of active workers, increase in the number of pensioners and of life expectancy);
- Changes in family patterns;
- Technological development and the consequent reduction of the work force, which has negative repercussions on financing based on contributions paid out of remuneration;
- Contribution evasion.

347. Besides this situation we can also point out the great effort made to raise the level of social protection and to adopt exceptional measures as part of the restructuring of activity sectors and enterprises after Portugal acceded

to the European Community, with a view to bringing about the common internal market and preparing the country so that its impact does not have serious negative social repercussions.

Legislation in force

348. In order to comply with the provisions of the Constitution, Act No. 28/84 of 14 August was adopted. This is the Social Security Act which lays down the foundations of the social security system.

349. The legal texts mentioned below are the most important ones that have been published in the respective fields of coverage since 1985:

- Decree-Law No. 307/86, of 22 September;
- Regulatory Decree No. 2/87, of 5 January;
- Decree-Law No. 41/88, of 6 February (general social security scheme for self-employed workers);
- Decree-Law No. 81/85, of 28 March;
- Regulatory Decree No. 19/85, of 28 March;
- Decree-Law No. 401/86, of 2 December;
- Regulatory Decree No. 75/86, of 30 December;
- Regulatory Decree No. 9/88, of 3 March (incorporation of workers or assimilated persons into the social security system);
- Decree-Law No. 40/89, of 1 February (voluntary social insurance scheme);
- Decree-Law No. 241/89, of 3 August;
- Prescriptive Order No. 621/89, of 5 August (social protection of firemen);
- Decree-Law No. 141/89, of 28 April (social protection of workers in domestic service);
- Decree-Law No. 300/89, of 4 September (footballers' social security scheme);
- Decree-Law No. 179/90, of 5 June (incorporation of teachers at non-higher, private and cooperative educational establishments into the general social security system);
- Decree-Law No. 136/85, of 3 May;
- Regulatory Decree No. 36/87, of 17 June;
- Decree-Law No. 154/88, of 10 March;

- Decree-Law No. 132/88, of 20 April;

- Decree-Law No. 287/90, of 19 September (sickness, maternity, paternity, and adoption);

- Regulatory Decree No. 21/85, of 4 April;

- Regulatory Decree No. 57/87, of 11 August;

- Decree-Law No. 322/90, of 19 October;

- Ordinance No. 470/90, of 23 June (disability, old age, survivor's and death);

- Decree-Law No. 143/88, of 22 April;

- Regulatory Decree No. 13/89, of 3 May (unified pension of workers covered by the general social security scheme and by the social protection scheme for public administation staff);

- Regulatory Decree No. 67/87, of 31 December;

- Regulatory Decree No. 21/88, of 17 May;

- Decree-Law No. 29/89, of 16 November (family benefits for handicapped persons);

- Decree-Law No. 17-D/86, of 6 February;

- Decree-Law No. 257/86, of 27 August;

- Decree-Law No. 299/86, of 19 September;

- Decree-Law No. 156/87, of 3 April;

- Ordinance No. 335/87, of 23 April;

- Decree-Law No. 64-C/89, of 27 February;

- Decree-Law No. 79-A/89, of 13 March (protection during unemployment);

- Ordinance No. 12/88, of 22 February (agreements for cooperation between regional social security centres and private friendly societies);

- Decree-Law No. 18/88, of 11 January;

- Order No. 52/SESS/90, of 27 June (occupational activities for the seriously handicapped);

- Decree-Law No. 30/89, of 24 January;

- Prescriptive Order No. 67/89, of 28 June;

- Prescriptive Order No. 96/89, of 11 September (installation, operation, licensing and inspection of profit-making establishments that engage in social support activities for children, young people, the elderly and the handicapped);

- Decree-Law No. 391/91, of 10 October (regulating the domestic reception arrangements for the elderly and disabled adults);

- Decree-Law No. 140-D/86, of 14 June;

- Decree-Law No. 295/86, of 19 September (single rate for contributions paid by employers and employees to the social security system);

- Decree-Law No. 52/88, of 19 February (regularization of debts owed to the social security system);

- Cabinet Resolution No. 15/88 (establishment of the National Policy Commission for the Elderly, under the aegis of the Minister of Employment and Social Security);

- Decree-Law No. 64/89, of 25 February (arrangements in force for dealing with infringements of social security regulations);

- Act No. 9/89, of May;

- Framework law on the prevention of disabilities and the rehabilitation and integration of disabled persons);

- Decree-Law No. 225/89, of 6 July (supplementary occupational schemes);

- Decree-Law No. 258/89, of 14 August (social security financial stabilization fund);

- Decree-Law No. 380/89, of 27 October (retroactive payment of social security contributions);

- Decree Law No. 72/90, of 3 March (Friendly Societies Code);

- Decree-Law No. 245/90, of 27 July (local social security services);

Essential characteristics of the social security system

350. The basic purpose of the Portuguese social security system is to protect workers and their families in the following situations: incapacity to work or reduction of their capacity to work, involuntary unemployment, death, and compensation for certain family dependants and support for the most needy individuals. The system also seeks to protect, in accordance with an appropriate pattern of benefits and after verification of certain conditions, persons who can prove that they are suffering economic or social hardship.

351. The system includes the social security schemes and institutions and their management, as well as the taking of any social action incumbent upon it; the

system is financed basically by contributions paid by beneficiaries and employers and by transfers from State funds.

352. The social security institutions are under the protection of the Government, and the State administrative services are responsible for monitoring and guiding their activities.

353. The social protection guaranteed by the system is given effect through contributory schemes, such as the obligatory general scheme and the voluntary social insurance scheme, and through the non-contributory scheme and social action.

354. The legislation in force also provides for Portugal's accession, on the initiative of the State, to international social security agreements intended to guarantee equality of treatment for Portuguese citizens and their families working or residing abroad in respect of the rights and obligations of persons covered by the social security systems of the countries concerned and to secure the maintenance, when they return to Portugal, of such rights as they have already acquired or which are in the process of being created.

Social security schemes

355. The general social security scheme obligatorily covers employed and self-employed workers in agriculture, industry, commerce and services. It is primarily financed by contributions paid by beneficiaries and employers. However, the general scheme provides for adaptations with regard to certain activities, either in respect of financing or in respect of the arrangements for benefits. By way of example, mention may be made of:

- The social security scheme for artists;
- The social security scheme for diocesan clergy and ministers of other religious denominations;
- The social security scheme for workers in domestic service;
- The social security scheme for footballers.

356. The non-contributory scheme provides protection for all persons suffering confirmed socio-economic hardship who are not covered by the contributory scheme. It covers nationals, but it may also be extended, in certain circumstances, to refugees, stateless persons and nationals of States Members of the European Union residing in Portugal. The scheme is financed by transfers from the State budget.

357. The voluntary social insurance scheme, contributory but optional, is open to persons who, owing to the nature of their activities, are not covered by the obligatory schemes. The scheme can cover nationals residing in Portugal or abroad and foreigners who have resided in Portugal for one year, as well as a few workers in specific situations, such as;

- Seamen working on ships owned by foreign enterprises;

- Former beneficiaries of the social security system who are no longer covered by the obligatory schemes;

- Social volunteers engaged in unpaid but socially useful activities in an organized way.

Contributions are paid by the insured persons and may differ according to the type of activity involved and the benefits granted.

358. Finally, staff of the central or regional public administration and military personnel have their own system of social protection.

359. Most bank workers are covered by professional schemes for sickness, disability, old age and death.

Protection arrangements of the social security schemes

360. The arrangements for benefits under these schemes take the form of cash benefits or benefits in the form of facilities and services, according to the contingencies to be protected against and taking into account the circumstances of beneficiaries and their families. However, whereas the general social security scheme covers a large number of contingencies, in particular sickness, maternity, industrial accidents and occupational diseases, unemployment, disability, old age and death, as well as family allowances, the non-contributory scheme provides only family allowances and protection in the case of disability, old age and death (see tables II to V, annex */).

361. Furthermore, access to the benefit arrangements under the latter scheme is permitted only to persons whose gross monthly income is equal to or less than 40 per cent of the national minimum wage or whose total family income does not exceed one and a half times such remuneration. However, for certain benefits there are specific income requirements.

362. The voluntary social insurance scheme is mainly intended to protect insured persons in the event of disability, old age and death, but in the case of certain activities this protection may be extended to include sickness, occupational disease and family allowances.

363. The provision of health care by the services of the Ministry of Health include consultation services, hospital care and medicines. It may be free of charge or subject to the payment of a symbolic proportion of the cost. Since it covers all citizens, beneficiaries of the social security system are included.

364. When they are temporarily prevented from working because of sickness, pregnancy or the birth or sickness of a child, beneficiaries of the general scheme are entitled to certain benefits. Among the beneficiaries of the voluntary social insurance scheme, only workers on ships owned by foreign enterprises are eligible for sickness benefit.

365. When a beneficiary suffers from a clinically confirmed illness that is unconnected with any industrial accident or occupational disease, a benefit will be paid to him provided he can prove six months' remuneration, either continuous or intermittent, recorded in his name and 12 days' remunerated work during four months before the month prior to the month when the illness was confirmed. The

daily amount of the benefit is 65 per cent of average remuneration calculated on the basis of the earnings recorded in the beneficiary's name over the first six months before the second month prior to that in which the illness was confirmed.

366. The benefit is paid as from the fourth day of illness (except in cases of hospitalization and tuberculosis, where it is paid as from the first day) for a maximum period of 1,095 days, whether continuous or intermittent, after which the beneficiary may, following an opinion given by a disability verification commission constituted for that purpose, become eligible for a disability pension.

367. In the case of a long illness lasting uninterruptedly for a period of 365 days, the daily amount is 70 per cent of average remuneration.

368. Under the self-employed workers' social security scheme, sickness benefit is not paid during the first 60 days of each period of incapacity, and the maximum benefit period is 365 days, continuous or intermittent. Once this limit has been reached, the beneficiary is eligible for a further indemnity only after six months have elapsed since the date of his previous medical discharge, provided he produces a record of remuneration or assimilated circumstances. If the beneficiary suffers from tuberculosis, the amount of the benefit is increased to 80 per cent of average remuneration calculated in the same way as sickness benefit; it may reach 100 per cent of remuneration in the event of hospitalization or if the beneficiary has family dependants.

369. Under all schemes there is no time limit for the grant of this benefit, which is paid throughout the whole duration of the illness.

370. The minimum amount of sickness benefit is 30 per cent of the minimum remuneration established for the beneficiary's field of activity.

371. Pregnancy benefit is paid to women beneficiaries of the special social security scheme for artists who cannot perform their normal professional activities during pregnancy. The benefit is determined in the same way as sickness benefit and may reach 80 per cent of average daily remuneration.

372. Maternity, paternity and adoption benefits are paid to women beneficiaries of the general scheme for 90 days, 60 of which must be taken immediately after childbirth. In cases of miscarriage or stillbirth, the period of benefit varies between 10 days and 30 days, depending on medical directions.

373. In order to be eligible for this benefit the beneficiary must give proof of six months' continuous or intermittent earnings recorded in her name. The amount of the benefit is calculated in the same way as in the case of sickness benefit, but the daily amount is 100 per cent of average remuneration.

374. Fathers, too, may also receive a benefit during the last 30 or 60 days not immediately following childbirth when the mother suffers from some physical or mental incapacity preventing her from taking care of the newborn baby.

375. Beneficiaries wishing to adopt children under three years of age are eligible for a benefit equal to the maternity benefit in order to be with the child; this benefit is paid as from the date of deposit of the adoption declaration and for a period of 60 days.

376. In the case of a clinically confirmed need to stop work in order to take care of children under three years of age for reasons of sickness, beneficiaries of the general scheme are eligible, for each child and for a maximum of 30 days in each calendar year, for a benefit amounting to 65 per cent of average daily remuneration. This benefit is paid to beneficiaries exercising exclusive paternal authority after verification that they have six months of continuous or intermittent remuneration recorded in their name and after a means test which provides, at present, that the monthly family income must not exceed 70 per cent of the highest national minimum wage.

377. In Portugal liability for the compensation of injuries occurring in the workplace lies with employers, who may transfer their liability to insurance entities that are under the tutelage of the Ministry of Finance but whose integration into the social security system is provided for.

378. In the case of occupational diseases, liability must be transferred to the social security system for employed workers who are obligatorily covered by the general scheme.

379. The registration of self-employed workers is optional. Social protection against these risks takes the form of benefits in kind and in cash. Benefits in kind include accessory or supplementary medical, surgical, pharmaceutical, hospital and other care that may be necessary or appropriate for the restoration of the worker's health and of his capacity to work and to earn.

380. In the case of temporary total incapacity, the beneficiary is eligible for an indemnity equal to two-thirds of basic remuneration, this being only of one-third during the first three days following the accident. In the case of temporary partial incapacity, the indemnity is equal to two-thirds of the reduction suffered in the general capacity to earn. This amount will be reduced to one-third in the case of hospitalization, when liability for paying the costs together with medical care and food lies with the entity responsible, or in cases where the beneficiary has no dependent family.

381. In the case of permanent total incapacity to perform any work, the beneficiary is eligible for a pension for life equal to 80 per cent of basic remuneration, plus 10 per cent for each dependent relative, up to a limit of 100 per cent of that remuneration. In the case of permanent total incapacity to perform normal work, the pension for life varies between one half and two-thirds of basic remuneration, depending on the beneficiary's residual functional capacity to work in any other compatible occupation.

382. In the case of permanent partial incapacity, the beneficiary is eligible for a pension for life equal to two-thirds of the reduction suffered in his capacity to earn. The degree of incapacity is fixed by the Labour Court or by the National Occupational Disease Insurance Fund in accordance with their respective jurisdictions.

383. When a pensioned beneficiary needs the constant assistance of a third person, he is entitled to an allowance of up to 25 per cent of the amount of the pension allocated to him, not exceeding 80 per cent of basic remuneration.

384. If the beneficiary dies as a result of an industrial accident or an occupational disease, the surviving spouse and descendants are eligible for a

survivor's pension on the terms and in the amounts established in the undermentioned Decree-Law.

385. The burial benefit is equal to 30 days' remuneration or twice that amount if the body is transferred.

386. Protection during unemployment is provided through unemployment benefits and through supplementary unemployment benefits paid to beneficiaries who, having exhausted the period of unemployment benefit, fulfil the conditions established therefor.

387. Paid workers who have an individual contract of employment and who are beneficiaries of the general social security scheme, as well as recipients of disability pensions who are subsequently deemed to be fit for work, are eligible for these benefits in the prescribed circumstances.

388. Artists covered by their own social security scheme are eligible for unemployment benefits only if they are employed by another person.

389. The conditions for the granting of unemployment benefits are as follows:

- Beneficiaries must provide proof that earnings have been recorded for 540 days of work for another person during the 24 months immediately prior to the date on which they became unemployed;
- Their unemployment must be involuntary;
- They must be able and ready to work;
- They must be registered as seeking employment at the employment centre of their area of residence.

390. The application for unemployment benefit must be lodged with the employment centre where the worker is registered, within 90 days following the commencement of the unemployment.

391. The monthly amount of unemployment benefit is equivalent to the amount to which the worker would have been entitled if he had been sick and is determined in the same way as sickness benefit. It may not be less than remuneration.

392. For former recipients of disability pensions who are deemed to be fit to work, the amount of the benefit is 65 per cent of the national minimum wage and it may not be less than the amount of the disability pension to which they were entitled as pensioners.

393. Unemployment benefit is paid as from the date of lodgement of the application, for a period determined on the basis of the beneficiary's age:

- 10 months for beneficiaries up to 25 years of age;
- 12 months for beneficiaries from 25 to 30 years of age;
- 15 months for beneficiaries from 30 to 35 years of age;

- 18 months for beneficiaries from 35 to 40 years of age;

- 21 months for beneficiaries from 40 to 45 years of age;

- 24 months for beneficiaries from 45 to 50 years of age;

- 27 months for beneficiaries from 50 to 55 years of age;

- 30 months for beneficiaries over 50 years of age.

394. Workers who are employed by another person full-time are covered for supplementary unemployment benefit if they:

- Provide proof of a record of earnings for 180 days' work during the 12 months immediately prior to the date on which they became unemployed;

- Are involuntarily unemployed;

- Are able and ready to work;

- Have exhausted the periods allowed for the allocation of unemployment benefit;

- Are registered as seeking work at the employment centre of their area of residence;

- Are suffering financial hardship - in other words, the monthly income of each member of the family unit must be less than 80 per cent of the national minimum wage established by law for the occupation in which the worker was engaged.

395. The monthly amount of supplementary unemployment benefit is calculated by the application of percentages to the national minimum wage. These percentages are as follows:

- 100 per cent for workers having four or more dependants;

- 90 per cent for workers having fewer than four dependants;

- 70 per cent for workers without dependants.

396. Supplementary unemployment benefit is paid as from the date of the application and for the same periods as unemployment benefit. When the benefit is paid after the period of payment of unemployment benefit, its duration is one half of the periods established for the allocation of unemployment benefit.

397. Beneficiaries aged 55 years or over are eligible for unemployment benefit up to 60 years of age. As from that age, they are eligible for an old age pension provided they fulfil the other conditions required for the allocation of that pension.

398. Finally, unemployment benefits may be paid globally in a single instalment to a beneficiary who presents projects for the creation of his own job.

399. Under the non-contributory social security scheme, young people seeking their first job are eligible for a benefit for young persons seeking to enter the work force if they:

- Are from 18 to 25 years of age;
- Have never worked or have not attained the average of 180 days in the last 360 days prior to the date of unemployment;
- Have been registered as seeking work at the employment centre of their area of residence for six months or more;
- Are ready and able to work;
- Are not entitled to unemployment benefit;
- Fufil the necessary residence requirements.

The amount of the benefit is equal to that of the supplementary benefit of the non-contributory scheme. The benefit is paid for 15 months, and the application may be renewed after 360 days have elapsed from the date on which the previous benefit ceased.

400. For the purposes of the award of a disability pension, a disabled person is considered to be any worker who, before the age of retirement and further to an illness or accident not covered by the legislation on industrial accidents or occupational diseases:

- Is deemed to be definitively unfit for work in his occupation, in such a way that he cannot earn more than one-third of the equivalent remuneration for doing so;
- Has completed a period of 60 months with earnings recorded in his name (72 months for workers insured under the voluntary social insurance scheme).

Disability status is confirmed through an opinion given by a disability verification commission convened for that purpose.

401. Beneficiaries who have received sickness benefit for a maximum period of 1,095 days are eligible for a provisional disability pension after the disability has been confirmed by the disability verification commission. The monthly amount of the disability pension is 2.2 per cent of the average monthly remuneration for each calendar year of recorded earnings and may not be less than 30 per cent nor higher than 80 per cent of such remuneration. Average monthly remuneration is calculated according to the S/60 formula, where S represents the total remuneration received by the person concerned during the five best years of the last ten years of work with earnings recorded in his name. The minimum monthly amount of the pension may not, however, be less than the amounts fixed annually.

402. The disability pension becomes an old age pension when the beneficiary reaches the age of retirement laid down by law. The disability pension is cancelled when the grounds that justified recognition of the disability no

longer prove to be correct. It may also be suspended, in whole or in part, when the pensioner engages in a gainful activity; he is, however, prohibited from working in the occupation for which he had been deemed unfit.

403. Under the non-contributory scheme, protection against disability is provided through the supplementary disability pension. This is paid to beneficiaries aged 18 years or over who suffer from a confirmed incapacity for all occupations and who are not effectively covered by the contributory scheme. They must, moreover, meet the means test - in other words, their gross monthly income may not exceed 30 per cent of the highest minimum national wage, or 50 per cent of it in the case of a couple. The amount of the pension is uniform and is fixed annually.

404. This scheme was modified by Decree-Law No. 329/93 of 25 December, which provided that the following arrangements should enter into force as from 1 January 1994:

"Conditions of allocation:

- Considered to be disabled persons are workers who, before reaching the age of retirement and as a result of a permanent physical or mental incapacity, cannot obtain more than one-third of the normal remuneration for their occupation;

- Allocated to beneficiaries having five years of recorded remuneration or in an equivalent situation, the completion of the term not being required when the beneficiary has been sick for 1,095 days and becomes eligible for a disability pension."

The amount of the pension is calculated in the same way as for an old age pension.

405. An attendance allowance for recourse to a third person is allocated to pensioners who cannot perform independently the actions essential to cope with the elementary needs of daily life and who require the permanent assistance of another person. The amount of this allowance is fixed annually (9,250 escudos in 1994). If the beneficiary has a dependent spouse, he will receive the dependent spouse supplement, the amount of which is fixed annually (4,020 escudos in 1994).

406. The granting of a disability pension under the non-contributory scheme is dependent upon the gross monthly sum paid not exceeding 30 per cent of the minimum wage, or 50 per cent in the case of a couple. The pension is paid to persons suffering from a permanent incapacity to work. The monthly pension is a fixed amount. In 1994 the amount was fixed at 16,600 escudos. A serious disability allowance is allocated to pensioners who depend on the permanent assistance of another person.

407. Pensions and the supplements thereto are paid 14 times a year.

408. Old age pensions are paid to beneficiaries of the general scheme who have completed 120 months' earnings recorded in their name (144 months for beneficiaries of the voluntary insurance scheme) and who have reached the following statutory ages:

- 65 years for men and 62 years for women;

- 60 years for insured unemployed persons;

- 55 years for workers registered as long-distance or coastal merchant marine seamen, coastguards, fishermen and dock workers;

- 50 years for underground miners.

409. The monthly amount of the old age pension is calculated in the same was as the disability pension and, as in the case of the disability pension, is also subject to a minimum sum.

410. It is permissible to draw an old age pension and to earn income from the exercise of an occupation. In this case the person concerned must continue to pay contributions to the social security system.

411. Old age is protected under the non-contributory scheme through the supplementary old age pension paid to beneficiaries aged 65 years or over who are not effectively covered by the contributory scheme and who meet the means test for the disability pension. The amount is the same as that of the disability pension.

412. This scheme was amended by Decree-Law No. 329/93 of 25 September, which stipulated that the following provisions should enter into force as from 1 January 1994.

413. The pension is allocated to beneficiaries who have over 15 calendar years of recorded earnings or who are in similar situations, as from the moment they reach 65 years of age.

414. The monthly amount of the pension is equal to 2 per cent per year of recorded earnings, with a minimum of 30 per cent and a maximum of 80 per cent, based on the average remuneration over the best 10 years of the last 15 years of recorded earnings. The earnings considered in the calculation of the pensions are up-dated on the basis of the cost-of-living index less the housing element.

415. The pension thus determined may never be less than the minimum pension (26,200 escudos in 1993).

416. A third person allowance is allocated to pensioners who cannot perform independently the actions necessary to cope with the basic needs of daily life and require the permanent assistance of another person.

417. The amount of this allowance is fixed annually. For 1994 it is 9,250 escudos.

418. If the pensioner has a dependent spouse, he will receive a supplementary pension for the spouse, in an amount established annually (4,200 escudos in 1994).

419. The legal age for the allocation of a pension may be brought forward to 60 years in the case of unemployed persons and to 55 years in the case of employed persons whose work is considered to be heavy or unhealthy by the law.

420. It is possible to receive this pension together with income from work. If an old age pensioner works, he is obliged by law to pay into the system, his pension being annually adjusted on the basis of remuneration received.

421. Under the non-contributory scheme, this pension, which is of a fixed amount of 16,600 escudos per month in 1994, is allocated to persons:

- Aged 65 years or over;

- Whose gross monthly income does not exceed 30 per cent of the national minimum wage, or 50 per cent in the case of a couple.

422. A serious disability allowance, which in 1994 is of 7,800 escudos per month, is allocated to pensioners who need the permanent assistance of a third person.

423. If a beneficiary or pensioner of the general social security scheme dies, a survivor's pension is paid to the surviving spouse or to the surviving former spouse entitled to alimony, as well as to descendants or equivalents and to ascendants. Other situations are assimilated to death for the allocation of this pension, in particular the disappearance of the beneficiary in the event of war, public disaster or catastrophe giving rise to a presumption that he has died.

424. The conditions and amounts of the survivor's pension are as follows:

(a) There must be earnings recorded in the name of the beneficiary during at least 36 months (72 months for beneficiaries of the voluntary social insurance scheme);

(b) Spouses are eligible for the pension if the marriage took place at least one year before the death of the beneficiary, unless there are children born of the couple, or about to be born, or the death is due to an accident or illness that occurred after the marriage;

(c) Spouses or former spouses are eligible for the pension for a period of five years if they are under 35 years of age on the date of the beneficiary's death, unless they suffer from a permanent total incapacity to work;

(d) A person who lives with the beneficiary in circumstances similar to those of a spouse, as established in the Civil Code, is also eligible for the pension on certain conditions;

(e) The pension is allocated to descendants up to 18 years of age. After that age the pension will be paid if they are not engaged in an activity covered by the obligatory social protection schemes, up to the following limits:

(i) From 18 to 25 years, respectively, provided they are attending a secondary educational establishment of various kinds or a higher educational establishment;

(ii) Up to 27 years, if they are preparing a thesis for a university degree, are studying on a post-graduate course or for a

doctorate, or are completing end-of-course training essential for obtaining a qualification;

(iii) Without age limit in the case of permanent total incapacity to work.

425. The monthly amounts of a survivor's pension are calculated by applying the following percentages to the disability or old age pension that is allocated or may be allocated to the deceased beneficiary:

- 60 per cent or 70 per cent for surviving spouses or former spouses, in the case of one or more;

- 20 per cent, 30 per cent or 40 per cent for descendants or equivalents, in the case of one, two or more descendants. These percentages are doubled in the case of orphans;

- 30 per cent, 50 per cent or 80 per cent for ascendants in the case of one, two or three or more than three.

426. Under the non-contributory scheme, protection against death is provided through widow's and orphan's pensions. A widow's pension is paid to the surviving spouse of a disability or old age pensioner beneficiary of the same scheme who furnishes proof that she is not in receipt of any other pension or of income exceeding the income required for the allocation of a disability pension. The amount is 60 per cent of the amount established for the disability or old age pension under the same scheme. An orphan's pension is paid to resident Portuguese orphans up to the age of majority or emancipation provided they are not covered by any other contributory social protection scheme and furnish proof of being in socioeconomic difficulties. The monthly amount of this pension is calculated by applying the aforementioned percentages for orphans of beneficiaries under the general scheme to the disability or old age pension under the non-contributory scheme.

427. It must also be stated that all social security scheme pensioners are eligible for holiday and Christmas allowances, which are paid together with the monthly pensions for July and December respectively, their amounts being equal to those of the pensions concerned.

428. Pensioners are also eligible for supplementary allowances, in particular for the serious disability allowance and the pension supplement for a dependent spouse. This allowance is allocated to disability and old age pensioners under the general scheme and under the non-contributory scheme to pensioners in receipt of the supplementary pension who suffer from a permanent total incapacity to engage in any occupation and who need the constant assistance of another person. The monthly amount of this allowance, which is fixed annually, varies according to the social security scheme concerned. Persons in receipt of a survivor's pension under the general scheme are eligible for an allowance when they need the assistance of another person, the amount of which is equal to that of the supplement for seriously disabled persons under the same scheme.

429. The monthly supplement for a dependent spouse, the amount of which is also fixed annually, is paid to disability and old age pensioners under the general scheme who have a dependent spouse, after a means test. Supplements to

pensions, as well as pensions themselves, are up-dated regularly, generally once a year.

430. When a beneficiary or pensioner under the general scheme dies (or disappears, as has already been indicated in connection with the survivor's pension), an allowance will be paid, in a single instalment, to his family. This allowance is paid as follows:

- One half to the spouse and one half to the descendants or equivalents eligible for the family allowance;
- In full to the spouse or former spouse if there are no eligible descendants;
- In full to the descendants eligible for family allowance if there is no eligible spouse;
- In full to the beneficiary's ascendants or equivalents if there is no eligible spouse or descendant;
- In the absence of the above-mentioned family members, the allowance will be paid to such dependent family members or equivalents as the beneficiary has designated for this purpose.

431. The amount of the allowance is six times the reference earnings (1/12 of the overall remuneration for the two years of the highest remuneration received during the last five years of earnings recorded in the beneficiary's name). These reference earnings may not be less than the national minimum wage.

432. Beneficiaries of the voluntary social insurance scheme are also eligible for this allowance.

433. The family allowances described below are designed to make adjustment for dependent relatives. They are granted under the general scheme, and some of them under the non-contributory scheme. Certain beneficiaries of the voluntary social insurance scheme, in particular workers on vessels owned by foreign enterprises and former beneficiaries of the social security scheme who are no longer covered by the obligatory schemes, are also eligible for family allowances. The general condition for the allocation of family allowances is the beneficiary's uninterrupted registration with the social security system; his registration is considered to be interrupted when 12 consecutive months have elapsed without any record of earnings.

434. The family allowance is a monthly allowance paid for each descendant of the beneficiary or his spouse (or person under their guardianship or whom they have adopted), as well as for each minor whom they wish to adopt or who is entrusted to their care by a court decision. Only descendants or equivalents who can be proved to be dependent on the beneficiary are eligible for the family allowance, which is therefore not paid in respect of persons in gainful employment.

435. Although the non-contributory scheme requires a means test for the allocation of the family allowance, in practice all children are covered by it;

moreover, descendants beyond the first degree may receive the allowance when they are orphans or when their parents do not receive the allowance for them.

436. The amount of the family allowance for each descendant is fixed annually. As from the third descendant, in family units whose gross monthly income is less than one and a half times the national minimum wage, the amount of the allowance is higher.

437. The amount allocated under the general scheme in 1993 was 2,320 escudos per month for each child.

438. The allowance is paid up to the age limit of compulsory schooling (14 years). This limit may be extended to descendants aged 18, 22 or 25 years respectively, provided they are attending a secondary educational establishment of various kinds, are attending a higher educational establishment, or are preparing a thesis for a degree, studying on a post-graduate course or for a doctorate, or completing end-of-course training essential for obtaining a qualification.

439. Each of the above-mentioned limits may be increased up to three years more if the descendant has not obtained satisfactory school results as a result of duly confirmed physical or mental incapacity.

440. As from the age of 25 years, the family allowance continues to be paid in the case of descendants suffering from a permanent incapacity to perform any kind of work when they do not fulfil the conditions required by law for the allocation of a monthly allowance for life or the supplementary disability pension under the non-contributory scheme.

441. The family allowance continues to be paid when the beneficiary is unable to work because of sickness, maternity, compulsory military service or unemployment.

442. Descendants of pensioners, including descendants of victims of industrial accidents or occupational diseases, also retain their eligibility for a family allowance, as well as descendants of prisoners.

443. A marriage allowance is paid, in a single instalment, to each spouse beneficiary of the general social security scheme. The amount allocated under the general scheme in 1993 was 18,510 escudos.

444. A birth allowance is paid, in a single instalment, at the birth of each live child. It is not paid under the non-contributory scheme. The amount paid under the general scheme in 1993 was 22,260 escudos.

445. A maternity allowance is paid monthly during the first ten months of life of each child. It is also paid under the non-contributory scheme. The amount paid under the general scheme in 1993 was 4,100 escudos per month per child.

446. A supplementary allowance for handicapped children and young people is paid up to the age of 24 years to the descendants or equivalents of a beneficiary or his spouse who, for reasons of sickness, injury or deformity, find themselves in one of the following situations:

- They need specific individualized care of a pedagogical or therapeutical nature;

- They are registered at a special education establishment, or are in a condition to be so;

- They are afflicted with a permanent diminution of their physical, motor, organic or intellectual capacity which does not allow them to provide normally for their subsistence when they reach the age for taking up an occupation.

447. The monthly amounts of this allowance, which is also granted under the non-contributory scheme, are fixed annually, according to age:

- Up to 14 years;

- From 14 to 18 years;

- From 18 to 24 years.

A monthly allowance for life is paid as from the age of 24 years for each descendant or equivalent of the beneficiary or his spouse who finds himself in one of the situations mentioned in connection with the supplementary allowance for handicapped children and young people and who is not eligible for a disability pension under the general scheme or for a supplementary disability pension under the non-contributory scheme.

448. A special education allowance is paid monthly to descendants or their equivalents up to the age of 24 years registered with special education establishments recognized by the Ministry of Education or benefitting from any other form of support designed to secure the child's recovery and social integration, provided by a specialist. The amount varies according to the degree of family participation in the cost of the special education and is determined on the basis of the family's income.

449. A third person's assistance allowance is paid monthly to severely handicapped persons who are already eligible for the supplementary allowance or for the monthly allowance for life and who find themselves in a situation of dependency and require the permanent assistance of another person in order to cope with the basic needs of daily life. This assistance, which may be provided through the successive and combined participation of several persons, is deemed to be permanent as soon as it implies a minimum period of attendance of six hours a day. The amount of the allowance is equal to that of the serious disability supplement.

450. A burial allowance, the amount of which is fixed annually, is paid in a single instalment upon the death of:

- Descendants or their equivalents eligible for a family allowance, including cases of stillbirth;

- The beneficiary's spouse;

- Ascendants or their equivalents of the beneficiary or his spouse, provided proof is furnished that they are dependants;

- The actual beneficiary or pensioner, in which case the allowance is paid to the person who furnishes proof that he undertook the burial.

This allowance is not paid under the non-contributory scheme.

Social action

451. The main objectives of social action are to prevent situations of need, dysfunction and social marginalization and to promote the integration into the community and protection of the most vulnerable groups, particularly children, young people, the handicapped, the elderly and any other persons suffering financial or social hardship when the social security schemes are not capable of coping with their situations (see table VI, annex 4 */).

452. Social action does not affect the principle of citizen, family and community responsibility.

453. Social action may be taken either directly by the social security institutions or through agreements with public or private non-profit-making entities pursuing the same objectives. The benefits provided through social action take the form of facilities and services, access to which depends upon the financial resources of the institutions concerned and upon the socioeconomic needs of individuals and families. They are distributed as follows:

454. Children and young people. In this case social action is aimed at promoting the protection of children and young people who are deprived, whether temporarily or permanently, of a normal family background, by cooperating with regard to the sociofamilial aspects of adoption and the guidance and coordination of family placements and by securing their acceptance in homes under the agency's own responsibility or under that of private social solidarity institutions (IPSS) with which they have cooperation agreements.

455. Seeking to cooperate with families in protecting children and young people with a view to securing their full development, social action provides facilities and services which include:

(a) Infant carers who, for remuneration, look after a maximum of four children up to the age of three years during working hours or at any other time when their parents are unable to do so;

(b) Family-style day nurseries for small infants, operated by a team of infant carers residing in the same area;

(c) Day nurseries to look after children up to the age of three years during working hours or at any other time when the parents are unable to do so;

(d) Kindergartens to look after children from three years of age up to the age at which they go to school;

(e) Activity and leisure centres to support children of school age up to the age of 12 years at times when they are not at school.

456. The handicapped. The social support provided to handicapped children, young people and adults is basically aimed at securing their sociofamilial integration and their full development. Thus, depending on the availability of services and institutions and having regard to the specific circumstances of the children, young people and adults concerned, cooperation agreements have been reached with the following public or private services and facilities:

(a) Psycho-medico-pedagogical observation, assessment and guidance centres (in collaboration with the health and education services) for the detection of handicaps and for following up cases detected and, at the same time, supporting and keeping track of the families involved;

(b) Early technical support services providing assistance and educational support to handicapped children;

(c) Special education establishments for the education and family and social integration of handicapped children;

(d) Occupational activity centres to prepare handicapped persons aged 16 years or over to engage in a productive activity or activities designed to promote their progressive development and their family and social integration;

(e) Welfare centres and residences for the seriously handicapped, offering accommodation and care to persons attending occupational activity centres; the residences take in seriously handicapped persons aged 16 years or over who have housing or integration problems and give them close support in their family environment.

457. The elderly. In this field, social action responses are basically aimed at securing the well-being of the elderly and preventing their social isolation. They are as follows:

(a) Assistance in the home, given by family helpers to elderly persons who cannot perform the tasks required by daily life;

(b) Day and companionship centres intended to assist elderly persons with work, companionship, food, hygiene and comfort care, and laundering;

(c) Homes that offer accommodation, food, health, hygiene and comfort care and companionship to elderly persons who cannot remain in their family or social setting. Conditions of admission depend on the availability and capacity of services and institutions, having regard to the social or socioeconomic needs of the elderly persons concerned. All the above-mentioned facilities and services may be public or the responsibility of private social solidarity institutions (IPSS) with which cooperation agreements have been concluded.

Structure of the system

458. The Social Security Act (Act No. 28/84 of 14 August) confirmed and maintained the previously established principles for the coordinated and interconnected activities of the institutions operating in this sector by making sure that they are effective in achieving the aims of the system through the allocation of decision-making powers to the different levels and through

recipients' participation by means of organizations representative of communities and different social groups.

459. The system is characterized by regional decentralization in decision-making in the 18 regions created for the purpose, which manage most of the system's benefits.

460. At present the following are considered social security institutions:

(a) At the national level:

(i) The Social Security Financial Management Institute;

(ii) The National Pensions Centre;

(iii) The Social Security International Relations and Conventions Department;

(iv) The National Insurance Fund for Occupational Diseases.

(b) At the regional level: the 18 regional social security centres and the regional social security administrations for the autonomous regions of the Azores and Madeira.

Financing

461. The social security budget provides for the distribution of receipts among the schemes and contingencies covered, as well as among the social action benefits financed by the social security institutions. The receipts of the system consist, in particular of, the contributions paid by workers and employers and of transfers by the State (see tables VII to XV, annex 4 */).

462. The general social security scheme is financed by the contributions paid by workers and, in the case of workers employed by another person, by contributions paid by their respective employers. As a rule, contributions are calculated by applying percentages to actual earnings or earnings established for the purpose, which vary from one scheme to another in such a way as to make it possible for them to be rendered adequate for either the type of occupation or the levels of remuneration concerned.

463. At present the contributions paid by employed workers are calculated by applying an overall rate of 35.5 per cent to earnings actually paid, 11 per cent of which are for the account of the worker and 24.5 per cent for that of the employer. As a rule the contribution paid by self-employed workers is 15 per cent of the national minimum wage.

464. The financing of the voluntary social insurance scheme is the exclusive responsibility of the persons insured under it. Their contributions vary according to their type of activity and the contingencies covered. For most insured persons, contributions are calculated by applying a rate of 16 per cent to the remuneration fixed by the insured. This agreed remuneration may not be less than the national minimum wage nor more than four times that wage.

465. The non-contributory scheme and social action are financed by the contributory scheme, with provision for transfers from the State. The proceeds from fines imposed for violations of the provisions governing the social security schemes or benefits accruing thereunder are used to support social action.

Private initiatives

466. The Social Security Act also provides for the making of supplementary arrangements for the benefits guaranteed by the social security schemes on the initiative of the parties concerned, both beneficiaries and enterprises, while accepting that their management may be entrusted to friendly societies, insurance companies or any other legal entity created for that purpose. The making of such supplementary arrangements is, however, dependent, in the allocation of the respective benefits, upon the inclusion of the contributions paid by those concerned in the sources of financing.

467. The making and management of supplementary arrangements have been given concrete form only recently; specific legislation on the constitution of pension funds by insurance companies and the legal framework for the operation of friendly societies (the Friendly Societies Code) and on the constitution of supplementary occupational schemes is already in existence.

Article 10

Family

468. In connection with the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights relating to the family, a brief reference must be made to family law following the amendments made to the Civil Code by Decree-Law No. 496/77 of 25 November, which entered into force on 1 April 1978. We shall then complete these references by mentioning the legislative measures which supplement those arrangements and which fall, at the same time, within the legal arrangements for the family and within overall arrangements affecting both the family and society, as in the case with family planning. The voluntary interruption of pregnancy is also an important element in family matters. We shall also refer to the protection of maternity and paternity, to the possibilities of assisting parents whose children have been hospitalized and to the social security benefits for dependent children. Finally, we shall refer to the work done with regard to the family by the Commission for the Equality and Rights of Women.

469. Legal framework. Men and women are equal in marriage, for which the minimum age is 16 years; for marriages celebrated between 16 and 18 years of age parental consent is required (arts. 132, 133 and 1649 of the Civil Code). Marriage must be entered into by the freely expressed mutual consent of the parties and be made public by registration (art. 1651 of the Civil Code).

470. The family is under the joint guidance of the spouses, who must agree on important decisions such as the choice of the family residence. Day-to-day questions may be decided by spouses individually (arts. 1671 and 1673 of the Civil Code).

471. Spouses must bear the responsibilities of family life in accordance with their possibilities. The law does not stipulate the work which each spouse must perform and attributes the same value to housework as to gainful activities (art. 1676 of the Civil Code).

472. Either spouse may use the name of the other or retain his or her own name. Engagement in an occupation or in a non-occupational activity is free, and the other spouse may not interfere with it (art. 1677 of the Civil Code).

473. Within marriage the spouses have the same rights with regard to the acquisition, administration, enjoyment and disposal of property in accordance with the form of property regime chosen (art. 1678 of the Civil Code).

474. The residual property regime is that of the community of acquests, although the parties are able to choose other arrangements (arts. 1698 and 1717).

475. The administration of common property is entrusted to each of the spouses except in the case of property belonging solely to one of them (art. 1678).

476. Where property is held in common, the disposal of real property requires the consent of both spouses. The disposal of the family home and furniture requires an agreement between husband and wife regardless of the property regime (arts. 1682, 1682-A and 1682-B).

477. Divorce arrangements, in so far as both grounds and effects are concerned, are strictly subject to the principle of equality of treatment between husband and wife. Divorce by mutual consent and contested divorce are provided for by the law; in the case of contested divorce, objective grounds such as de facto separation for six consecutive years are admitted (arts. 1773, 1779, 1781, 1781 al. (a)).

478. Married parents exercise parental authority together (arts. 1877, 1878, 1885, 1888 and 1901). In the event of divorce or judicial separation of persons and property, only the progenitor entrusted with custody of the children exercises parental authority (art. 1906).

479. If the parents are not married, parental authority is exercised by the person who has custody of the children, the law presuming that custody devolves upon the mother. When the parents live together, they may exercise the parental authority jointly if they declare that they wish to do so (art. 1911).

480. Children's rights are not dependent on the existence of marriage between the parents. The law has abolished the distinction between legitimate and illegitimate children, as has been mentioned above.

481. A free union produces a number of legal effects on the survivor's situation. In accordance with article 2020 of the Civil Code, the survivor is entitled to alimony out of the deceased's estate. An important aspect for the family is the survivor's right to succeed to the lease of the dwelling, if he or she has lived with the leaseholder in a joint household for five years.

482. In addition to this family law framework, mention should be made of a few legal texts which supplement it.

483. Act No. 3/84 of 24 March recognized the right to sex education as part of the right to education. Under article 1, the State is responsible, as part of the arrangements for the protection of the family, for promoting the dissemination of family planning methods and for organizing legal and technical structures to permit the practice of conscious maternity and paternity. Young people have the right to sex education. The State, through the schools, health organisations and the media, supports the right to sex education as part of the right to education (arts. 1 and 2). Scientific knowledge of anatomy, genetic physiology and human sexuality is to be imparted by the schools, thereby contributing to the elimination of discrimination based on sex and of the traditional divisions between men and women (art. 2.2).

484. The right to information on family planning methods includes free access to the scientific and sociological knowledge required for the practice of healthy methods of family planning and the practice of responsible maternity and paternity (art. 3.1).

485. The purpose of family planning is to provide individuals and couples with the information, knowledge and means needed to take a free and responsible decision with regard to the number and spacing of their children (art. 3.2). Family planning methods are also considered to be excellent tools for protecting maternal and child health, preventing abortion, and promoting the quality of family life (art. 3.3).

486. The family planning envisaged by the law includes marriage and genetic counselling, information on the use and distribution of contraceptives, infertility treatment, the prevention of sexually transmitted diseases and the detection of genital cancer (art. 4).

487. The State guarantees to everyone, without discrimination, free access to counselling and to any other means of family planning (art. 5.1). It has a duty to promote the progressive coverage of the national territory by family planning counselling units, which are to be attached to health centres and existing health structures for the purpose of carrying out family planning activities (art. 5.2).

488. The Act requires that information and counselling should be objective. They may be based only on scientific data: the use of a particular method of contraception may be rejected by the planning services only for duly justified medical reasons (arts. 6.2 and 6.3).

489. The Act requires the State in general, and the health services and the Commission for the Equality and Rights for Women in particular, to promote and popularize family planning methods (arts. 5.3 and 7).

490. The State has a duty to support all the initiatives of private associations and other institutions whose purpose is the dissemination of family planning methods and contraceptives in accordance with the spirit of the Act.

491. Finally, it must be pointed out that counselling given and contraceptives distributed by public entities are free of charge (art. 6.1).

492. The Act also attaches great importance to the study and treatment, by specialist centres, of sterility. It attributes importance to artificial insemination as a means of countering sterility (art. 9).

493. In order to make sure that the persons concerned are fully aware of what is involved, the Act requires a number of formalities for voluntary sterilization. The Act acknowledges that any doctor has the right of conscientious objection with regard to the practice of sterilization or artificial insemination (arts. 10 and 11). All staff members of family planning counselling centres are obliged to maintain professional secrecy as to the purpose, content and results of counselling.

494. Order No. 52/85 of 26 January contains the regulations for family planning counselling and counselling at young people's information centres. It provides for the establishment, within one year, of family planning counselling facilities at all health centres and hospitals having gynecological and obstetric departments. It has also been decided to establish young people's information centres to provide:

(a) Information on anatomy and reproductive physiology;

(b) Sex information;

(c) Preparation of young people to enable them to make correct use of their sexuality;

(d) Distribution of contraceptives in risk situations.

The information and counselling will be free of charge, as will be the distribution of contraceptives.

495. Act. No. 6/84 of 11 May has provided for a few cases in which the voluntary interruption of pregnancy is permitted, thereby introducing a few changes in the Penal Code of 1982. According to the text of this Act, an abortion performed by a doctor or under his supervision at an official or publicly recognized health centre with the consent of the pregnant woman is not punishable if, having regard to the state of medical knowledge and experience in this field:

- It is the only way to avert the danger of death or of serious and irreversible injury to the body or physical or mental health of the pregnant woman;

- It is the indicated way of avoiding the danger of death or of serious and lasting injury to the body or physical or mental health of the pregnant woman and is performed during the first 12 weeks of pregnancy;

- There are reliable grounds to suppose that the child-to-be will suffer incurably from a serious disease or malformation, provided the abortion is performed during the first 12 weeks of pregnancy;

- There are serious indications of rape. In this case the abortion must be performed within the first 12 weeks and the rape must have been reported to the police.

496. The Act guarantees to doctors and to all other health professionals the right of conscientious objection to participation in lawful voluntary interruptions of pregnancy.

497. Act No. 14/85 of 6 July provides for the right of a pregnant woman admitted to a public establishment to apply to be accompanied during childbirth by the future father or by one of her relatives, regardless of the time of day or night when childbirth occurs. The person accompanying the pregnant woman is not subject to the regulations concerning visitors.

498. In connection with the protection of the family, mothers and children, we would draw attention to further progress made in accordance with the constitutional principle set forth in article 68, which recognizes motherhood and fatherhood as social functions. This progress is reflected in the provisions of Act No. 4/84 of 4 April, which establishes the legal framework for the exercise of motherhood and fatherhood. Under these texts both parents have equal rights and duties with regard to the maintenance and upbringing of children.

499. Women are entitled to free medical care during pregnancy and for 60 days after childbirth. A pregnant woman may not be dismissed except for a reason provided for by law. Working women are entitled to maternity leave for 90 days, 60 days of which must be taken after giving birth, without the loss of any right, including the right to a wage. In certain circumstances, such as the physical or mental incapacity of the mother, such leave may be granted to the father. Mothers engaged in occupational training courses which might be seriously disrupted by a long absence may benefit by having the maternity leave granted to the father. The taking of maternity leave may not affect the rights aquired during an uncompleted training period, but the training must be completed later. In the case of adoption, maternity leave is of 60 days.

500. Pregnant women have the right to absent themselves from work for prenatal consultations. Breast-feeding confers the right to be absent from work twice a day for a maximum period of one hour. Workers are entitled to absent themselves from work in order to attend to their sick or injured children under ten years of age, including adopted children and children of their spouse; they also have 15 days in which to attend to children over 10 years of age, spouses and ascendants. Such absences entail no loss of rights.

501. Hospitalized children are entitled to be accompanied by their father or mother. Working parents have the right to absent themselves from work in order to accompany a hospitalized child. To improve the exercise of this right, Decree-Law No. 26/87 of 13 January granted free meals to parents who accompany their children in health units.

502. Workers with children under 12 years of age are entitled to be transferred to part-time work or to work flexible hours in certain circumstances.

503. The law protects the genetic condition of men and women by prohibiting or restricting activities which may entail genetic risks.

504. The social security system, which was referred to in connection with article 9 of the Covenant, provides for maternity benefits and monthly allowances for each minor child. Decree-Law No. 142/91 of 10 April improved these arrangements by providing cash support for the family on the basis of age and school situation.

505. Special attention is also paid to handicapped children and young people. The legal arrangements for this assistance are provided for in Regulatory Decree No. 67/87 of 31 December. Order No. 43/87 of 19 January increased the amount of the supplementary allowance for a dependent spouse. Family welfare is also affected by Decree-Law No. 372/90 of 27 November, which governs the constitution, rights and duties of parents' or teachers' associations.

506. The Commission for the Equality and Rights of Women, instituted by Decree-Law No. 166/91 of 9 May, replaced the Commission on the Status of Women. Its purpose is to promote the equality of men and women and to enable women to have the same opportunities as men. As far as the family is concerned, it establishes the joint responsibility of men and women at the family level. The Commission on the Status of Women has proposed, in particular, a review of family law. It formed part of the commission responsible for revising the Civil Code. It cooperated in the preparation of the official document by means of which the 90-day maternity leave was instituted (Decree-Law No. 112/76 of 7 February), contributed to the review of family law, criminal law, legislation on nationality, the protection of maternity and paternity, family planning and sex education, military service and new technologies applied to procreation.

507. At the family level, the Commission for the Equality and Rights of Women took part in the work of the Commission on the Status of Unmarried Mothers and of the Interministerial Commission on the Family. It also forms part of the Commission for the International Year of the Family, working groups on the reconciliation of family and working life and marital preference, as well as of the interdepartmental organic structure for family affairs.

508. Mention must also be made of the approval by Parliament and the ratification by the President of the Republic of the ILO Convention (No. 102) concerning Minimum Standards of Social Security, which provides for the concession of family allowances by Member States.

509. In connection with the protection of the family, mention must also be made of Act No. 34/91 of 27 July, on social patronage. As has already been emphasized in this report, enterprises which support the family and children, in particular by the establishment of day nurseries and kindergartens for the benefit of their staff or members of their respective families, obtain advantages in the assessment of corporation tax. The same applies when such enterprises make donations for this purpose.

Protection of children and young people

510. In this connection we refer to the principal measures taken in Portugal for the protection of children and young people. Subsequently we shall deal with the institution of adoption, and finally we shall concern ourselves with measures of tutelary law for the benefit of children and young people who are socially maladjusted or in need of special protection. For this purpose it is important to refer to Portugal's approval and ratification of the Convention on

the Rights of the Child in September 1990 (Parliamentary Resulution No. 20/90 and Presidential Decree No. 49/90 of 12 September).

511. The measures adopted by the Government are concerned with guaranteeing students' access to education. They consist of an improvement in the conditions of access to education for all those who have difficulties in acceding to it and in students' possibilities of regularizing their access to education in conditions considered to be equitable.

512. Access to education by all adolescents is extremely important. We refer to a number of measures designed to facilitate it. However, before doing so we shall give a few examples illustrating the variety of assistance which the State can give to students.

513. Legislation reflects, at one end, the very great effort made to promote the access to education of young handicapped persons, who are not required to attend courses in full but maintain a rate of attendance adapted to their difficulties, their work being assessed in terms that enable them to overcome the effects of their handicaps. Young handicapped persons are not, however, exempt from the nine years of compulsory schooling, which they will receive, if necessary, in special establishments, pursuant to Decree-Law No. 35/90 of 25 January. At the other end there is the common treatment of all young people with regard to access to selective higher education, regulated by Decree-Law No. 184/92 of 3 September, which governs access to higher education.

514. We can now mention a few measures relating to access to education, such as:

- Decree-Law No. 243/87 of 15 June adopts measures to facilitate the compulsory schooling of handicapped persons;

- Order No. 853-B/87 of 4 November regulates the award of scholarships for higher education;

- Resolution No. 19/88 of 17 May is intended to stimulate the creative capacity of young people;

- Decree-Law No. 436/88 of 23 November governs the legal arrangements for apprenticeship;

- Order No. 115/89 of 16 February permits the granting of loans to university students by the university social services;

- Decree-Law No. 35/90 of 25 January makes compulsory schooling free of charge;

- Decree-Law No. 139-A/90 of 28 April regulates the career status of nursery and primary and secondary school teachers;

- Act No. 50/90 of 25 August makes it possible for teachers and nursery school staff to continue their studies with a view to obtaining a degree;

- Decree-Law No. 276/90 of 10 September provides for access to higher education for top-competition athletes;

- Order No. 18/91 of 19 January introduces rules for the "basic law of the education system" (Act No. 40/86 of 14 October);

- Act No. 20/92 of 19 August establishes new fees to be paid for taking higher education courses at the university level. This Act allows for social inequality and institutes a differential-payment scheme depending on the individual's means. Rules for its implementation are contained in Order No. 698/93 of 28 July;

- Decree-Law No. 189/92 of 3 September governs access to higher education.

515. Education measures presuppose the existence of adequate installations to support them. They also require the existence of specialist establishments allowing for the diversification of education. A few examples of this can be given:

- Decree-Law No. 108/88 of 31 March governs the introduction of private or special and cooperative schools into the school network;

- Decree-Law No. 388/88 of 25 October provides for the concession of incentives to expand the school network;

- Decree-Law No. 32/90 of 24 January provides for a subsidized credit for vocational schools;

- Order No. 32/90 of 26 May instituted organizational commissions for the furtherance of education;

- Order No. 619/90 of 3 August institutes agricultural vocational schools;

- Order No. 760-A/90 of 28 August institutes new educational establishments;

- Decree-Law No. 243/91 of 6 July institutes vocational schools.

516. Education is not complete unless it is supported by measures to arouse a general interest in reading. The book is certainly the pre-eminent subject matter of such measures. Decree-Law No. 57/87 of 31 January introduces a new policy with regard to school textbooks. Order No. 36/87 of 16 January provides for subsidies for the purchase of books and school materials by disadvantaged children. Decree-Law No. 111/87 of 11 March instituted a programme of technical and financial cooperation among the Ministry of Education and Culture, the Portuguese Book and Reading Institute, and the municipalities, for the implementation of a reading promotion policy within the framework of municipal libraries.

517. At the education level, mention must also be made of Order No. 63/91 of 13 March, which establishes the coordinating secretariat for multicultural education programmes. The purpose is to acquaint children with the cultural and

ethnic diversities among them so that they mutually adapt to one another and form ties of companionship among themselves.

Other legislative measures for the protection of children and young people

518. Access to work is an extremely sensitive matter, especially as far as the first job is concerned. On this, in fact, often depend the training and occupational preparation that condition a young person's working life. Decree-Law No. 156/87 of 31 March instituted, under the non-contributory social security scheme, a cash benefit in the form of an allowance for young people seeking their first employment. Under Act No. 35/87 of 18 August, an unemployment allowance for young people seeking their first employment is granted. Act No. 50/88 of 19 April concerns the allowance for young people seeking to enter the work force, and rules for its implementation are contained in Order No. 382/88 of 17 June. Decree-Law No. 286/88 of 12 August increased the penalties to be applied when minors under the minimum legal age of employment are found working. Decree-Law No. 396/91 of 16 October, to which we shall refer later, is concerned with the minimum age for employment.

519. Young handicapped persons, who have already been mentioned in connection with access to education, must be compensated as far as possible for their handicap, in such a way that they can take part in life on a footing of equality with other persons. Regulatory Decree No. 67/87 of 31 December governs family allowances for young handicapped persons. Decree-Law No. 18/89 of 11 January, governs occupational support activities for them. Decree-Law No. 29/89 of 23 January provides for the allocation of an allowance for the assistance of another person to a handicapped person already in receipt of other benefits.

520. In education, students' associations are particularly important for the promotion of activities and even for the defence of young people's interests. By extension, young people may form associations outside the education framework for the realization of lawful objectives. Act No. 33/87 of 11 July, which contains the legal arrangements to which students' associations are subject, was supplemented by Decree-Law No. 91-A/88 of 16 March. Order No. 140-A/89 of 25 February, Order No. 244/89 of 3 April, Order No. 841-A/90 of 15 September, Order No. 1113-A/90 of 8 November and Decree-Law No. 79/91 of 17 February are all concerned with support for young people's associations.

Adoption

521. The initial report submitted by Portugal already contained the legal arrangements for adoption - in other words, the link which is established between two persons in parallel with natural descent but independently of blood ties. In the report mention was made of the two types provided for in our Civil Code, full adoption and simple adoption, depending on the extent of their effects. Either may emanate from both spouses (joint adoption) or from a single person (individual adoption). We attach in an annex a study */ published in French in the Revue internationale de droit comparé on the nature of adoption and the legal rules for this institution, under the title "L'adoption dans le droit civil portugais", by M. Pereiro Coelho, Professor at the Coimbra Faculty of Law.

522. Neglect is a condition which may give rise to the adoption of a minor whose parents have shown, during the year preceding the presentation of the

application for a declaration of neglect, a notorious lack of interest in him, such as to endanger the maintenance of the emotional ties typical of filiation; in these circumstances the consent of the parents is not, of course, required. A declaration of neglect may be applied for by a judge of the Government Procurator's Office or by the director of the welfare institution, private or public, where the minor has been taken in. The application may be opposed by the minor's parents, a judge of the Government Procurator's Office unless he was the applicant, an ascendant or a collateral relative who has taken in the minor (art. 166, "Tutelary Arrangements for Minors", of Decree-Law No. 314/78 of 27 October and art. 1978 of the Civil Code). The provisions concerning the procedure relating to the forfeiture of parental authority (arts. 195.2 and 196-198 of the Decree-Law) apply to the declaration of neglect. The order declaring the state of neglect will designate a provisional guardian who will perform his functions until adoption is completed or final guardianship is instituted (art. 141 of the Decree-Law). If one year has elapsed since the issue of the declaration of neglect and the minor has not been entrusted to anyone who wishes to adopt him, the father or mother may apply to the court for the minor to be returned (art. 168 of the Decree-Law).

523. Forfeiture of parental authority may be applied for by a judge of the Government Procurator's Office, any relative of the minor or the person to whom his custody has been entrusted when either parent has wilfully neglected his duties or, owing to inexperience, infirmity, absence or other circumstances, is not in a position to perform them (art.194 of the Decree-Law).

524. Between the beginning of the adoption proceedings and the constitution of the respective legal tie by judicial decision there is a period during which inquiries are made, in an endeavour to reach conclusions as to the personality and health of the prospective adoptive parent and the minor, the suitability of the prospective adoptive parent for bringing up and educating the minor, the family and financial situation of the prospective adoptive parent and the grounds for his application (art. 163 of the Decree-Law and art. 1973.2 of the Civil Code). These inquiries are particularly important in cases of full adoption, in which the adopted child acquires the status of a child of the adoptive parent and is integrated with the latter's descendants in his family, the family relations between the adopted child and his family of origin being extinguished. That is why provision is made for the adopted child to be entrusted to the adoptive parent initially for a period of time sufficient for assessing the suitability of the adoption, a period which must not be less than one year. The inquiries are made by the social support services attached to the family courts in Lisbon and Oporto and by the social security services attached to the ordinary courts at all other places in Portugal.

525. Pursuant to Decree-Law No. 274/80 of 13 August, anyone wishing to adopt a minor must communicate his intention directly to the social security department of the area of his residence. Such a communication must be made even when the prospective adoptive parent lives with the minor and is responsible for him. Further to the communication, the social security service will contact the prospective adoptive parent and the minor and prepare a report which must accompany the application for the constitution of the legal tie addressed to the competent court (arts. 2 and 3). The social security services are, in Lisbon, the Santa Casa de Misoricórdia and, for the rest of the country, the regional social security centres.

526. The European Convention on the Adoption of Children entails a change in, or adaptation of, the Portuguese adoption regime. It was approved by Parliament on 31 January 1990 and ratified by the President of the Republic on 20 February 1990. The Convention was signed at Strasbourg on 24 April 1967 by the States members of the Council of Europe. Portugal was able to admit it in its domestic legislation only after amendments had been introduced into the Civil Code in 1977. The Portuguese legislature has also availed itself of it in order to make certain amendments to the domestic adoption regime. According to the Convention, adoption is valid only if it has been pronounced by a judicial or competent administrative authority if the parents agree, unless they are deprived of parental authority, and with the consent of the adoptive parent's spouse. Legislation may permit adoption by a single adoptive parent, but the latter must be joined in marriage to a spouse. A further adoption is permitted only in certain cases. The adoptive parent must be aged from 21 to 35 years. The competent authority will pronounce adoption only if it is convinced that the adoption will secure the rights of the child. An inquiry will be held to determine whether the adoption is possible from the standpoint of the prospective adoptive parent. Adoption confers on the adoptive parent parental rights and duties with regard to the child.

527. Portugal initially entered reservations in respect of this Convention. In particular, Portugal accepts that the mother may immediately give her consent to the adoption without waiting for the elapse of the period laid down in article 5(4). Portugal does not consider itself bound by the provisions of article 10(5) of the Convention. It does not place on the same footing children born in marriage and an adopted child, who is not treated in the same way in matters of inheritance.

528. In 1993 Portugal wished to amend the adoption regime and at the same time to withdraw one of its reservations to the Convention, that concerning the prohibition on the mother giving her consent before six weeks have elapsed since childbirth. This situation is provided for in Act No. 2/93 of 6 January, enabling the Government to legislate on adoption.

529. Following this enabling legislation by Parliament, the Government legislated through Decree-Law No. 185/93 of 22 May. The text introduces amendments to the Civil Code and to Decree-Law No. 314/78 of 27 October and provides, in article 3, for the intervention of social security departments and for the placement abroad of minors resident in Portugal with a view to their adoption and for the adoption by residents of Portugal of minors resident abroad.

530. The amendments to the Civil Code concern the entrusting of a child to the care of a court. The court, by its own decision, in certain circumstances such as when the child is of deceased or unknown parents, when consent is given for his adoption, when his safety, health or moral training is endangered, or when his parents lack interest in him, places him in a family or entrusts him to the care of an individual or institution.

531. The period of marriage required for adoption is reduced to four years, and the minimum age for adopting a child is 25 years in some circumstances and 30 in others. The maximum age is 50 years, or more when the adopted child is the child of the prospective adoptive parent's spouse. The adopted child must be under 15 years of age, or up to 18 if he has been in the care of the prospective

adoptive parents since 15 years of age. The consent of the mother may be given only after six weeks have elapsed since childbirth.

532. There have been no amendments in respect of inheritance, and the reservation previously entered with regard to the European Convention on the Adoption of Children is thus still justified and has therefore not been withdrawn.

533. The amendments to the Decree-Law provide for the entrusting of the child to the care of a court, the designation of a provisional custodian up to the time of adoption or guardianship, the consent of the parents, the confidentiality of the adoption procedures, and the difficulties that may arise in connection with adoption.

534. Intervention by the social security services includes the entrusting of a minor to administrative care, which may not, however, be decided upon if there is opposition, in particular from the parents, in which case the process must be referred to a court.

535. Chapter IV provides for the placement abroad of minors resident in Portugal with a view to their adoption. Prior judicial authorization is required, since adoption abroad is a subsidiary measure; it occurs only if the minor cannot be or is not adopted in Portugal. If adoption in Portugal is possible, adoption abroad does not take place. The Decree-Law provides for the adoption of minors resident abroad by residents of Portugal. An application by the prospective adoptive parent is made to the social security service of his area of residence. The application is transmitted, after study, to the central social security organ, which will take the necessary steps to carry out the adoption.

536. Finally, the Decree-Law specifies which bodies are to intervene. The social security services are the regional social security centres and, in Lisbon, the Santa Casa da Misericórdia. The central organ is the Directorate-General for Social Action. The Decree-Law entered into force on 23 August 1993, three months after its publication in the Official Gazette.

Tutelary measures

537. Tutelary measures are designed to secure the recovery of children over 12 years of age whose development is in danger in their home environment. The court decides on the appropriate means, placing the child in a different environment where he is supported by social institutions without, however, leaving his family of origin unless the latter is manifestly inadequate to meet the child's developmental needs. These measures may also be applied to children under 12 years of age when they are in similar situations.

538. The legal framework for these arrangements has not undergone any substantial change since the submission of Portugal's initial report. Pursuant to Act No. 38/87 of 23 December, as amended by Act No. 24/90 of 4 August, questions concerning minors fall within the competence of the juvenile and family courts (arts. 61 and 62).

539. Juvenile courts are competent to order measures with regard to children aged 12 years or over (except in the circumstances covered by art. 26(2)) and under 16 years of age (except in the circumstances covered by art. 26(4)) who:

(a) Show serious difficulties in their adaptation to normal social life as a result of their circumstances, conduct or revealed inclinations;

(b) Engage in begging, vagrancy, prostitution, debauchery, abuse of alcoholic beverages or illicit use of drugs;

(c) Are agents in an act deemed by law to be a criminal offence.

Pursuant to article 62(3) of Act No. 38/87 of 23 December and article 15 of Decree-Law No. 314/78. juvenile courts are also competent to:

(a) Decide upon measures with regard to minors who have been maltreated, abandoned or deprived of support and who, as a result, are in danger of losing their health, security, education or morals;

(b) Decide upon measures with regard to minors who have reached 14 years of age and are seriously unadapted to the discipline of the family, work or the educational and welfare institution to which they have been entrusted;

(c) Assess and judge applications for protection lodged by minors against the abuse of authority by their families or the institutions to which they have been entrusted.

540. In brief, the purpose of the juvenile courts is to provide judicial protection for minors and to defend their rights and interests through the application of tutelary measures of protection, assistance and education (art. 2 of the Decree-Law).

541. The family court, on the other hand (art. 61 of Act No. 38/87 of 23 December) is concerned with the institution of guardianship and the administration of property, with decisions relating to full adoption, with deciding on maintenance payments for minors, the forfeiture of paternal authority or the imposition of limits thereon, with officially pronouncing judgement on maternity or paternity investigations, and so forth.

542. Minors' protection commissions have a duty to intervene when children under 12 years of age are in situations analogous to those which, in the case of adolescents of from 12 to 16 years, may give rise to intervention by the courts. Decree-Law No. 189/91 of 17 May defined in new terms the functioning and composition of these commissions. They operate at the local level, are non-judicial and are responsible for taking measures in respect of children under 12 years of age. They consist of representatives of the Government Procurator's Office, the Administration, doctors and parents' associations. The courts and the minors' protection commissions apply tutelary measures of protection, assistance and education. These measures are those deemed to be appropriate in the case of minors' protection commissions or those provided for in the Decree-Law in the case of the courts.

543. Mention should be made of the new legislation on foster families. Foster homes were provided for in limited terms before the entry into force of Decree-

Law No. 190/92 of 3 September. The foster home is a form of social cooperation under which a child is temporarily entrusted to the care of a foster family. Foster homes are organized by the placement institutions, and there is close support by the natural family so that it can take back, in the shortest possible time, the child which had to leave it. The provision of a foster home is precisely one of the measures that can be taken with regard to a child in the aforementioned circumstances.

544. Placement in a public or private educational or welfare institution may be decided upon. The minor may be placed in a specific institution of the minors' protection services, a home, a medico-psychsological institute or a re-education establishment.

545. Homes (semi-boarding, transition, residential or specialized reception houses) are family-type communities generally situated in an urban centre and designed for a small number of adolescents who pursue their school, working and social life there, depending on their age. The minors' protection services have five such homes, two for boys and three for girls.

546. The purpose of medico-psychological institutes (arts. 109 and 110 of the Decree-Law) is to place and to admit mentally deficient minors who, because of their handicaps or disturbances, cannot be integrated into normal establishments. There is only one institute of this kind, in Lisbon (the Navarro de Paiva Institute).

547. The purpose of re-education establishments (arts. 99-104 of the Decree-Law) is the progressive promotion, through education, of the social rehabilitation of minors placed in them, by providing them with tuition, cultural education and vocational training, depending on their aptitudes and inclinations. Distributed throughout the country, they are located in and around towns or in rural areas. There are ten of them, seven for boys and three for girls.

548. In Lisbon, Oporto and Coimbra there are also observation and social action centres, "non-judicial institutions for the protection of minors and support for juvenile courts and minors' protection commissions". Despite their geographical situation, these centres, pursuant to Order No. 568/89 of 22 July, provide support not only to judicial districts which have juvenile courts but also to those which, having no juvenile courts, fall within their area of jurisdiction. Thus they provide support for juvenile courts and minors' protection commissions, their duty being to observe a minor when consideration is being given to the possibility of his placement or admission. Such observation will make it possible to ascertain the minor's character and temperament, his aptitudes, talents and inclinations, and the family and social environment in which he is growing up. The centres are also places of immediate and provisional shelter for minors in emergency situations when they cannot or should not be entrusted to the custody of their parents or other legal representatives.

549. The establishment of the juvenile court at Funchal had been determined by Decree-Law No. 269/78 of 1 September. The creation of a support institution was required. Decree-Law No. 506/80 of 21 October created the Funchal Multiple-Purpose Centre, regulated by Order No. 30/85 of 12 January. A few further

examples concerning the treatment of minors under juvenile tutelary law can be given to show the effort made by the Portuguese authorities to promote their protection.

550. Decree-Law No. 345/85 of 23 August determined the situation of Catholic religious assistants in establishments for minors. Appointed by the Ministry of Justice, they are hierarchically dependent on the director of the establishment and, as far as their pastoral activities are concerned, on the bishop of the diocese. They provide moral and spiritual assistance to minors, either in groups or individually, carrying out their functions with the agreement of the director of the establishment and taking any initiative designed to safeguard the moral well-being of young people, in particular through visits to their families with a view to promoting their cooperation in the development of the young.

551. The institutions to which minors are entrusted are connected with various social structures, particularly education. For this purpose, agreements have been concluded with ministerial and administrative structures, such as:

- The agreement between the Ministries of Justice, Education, Culture and Social Affairs of 25 July 1978, which provides for the annual transfer of primary school teachers to provide schooling for children and young people in such institutions;

- The agreement between the Ministry of Justice and the State Secretariat for Population and Employment of 3 December 1979 designed to stimulate the vocational training given by these institutions;

- The agreement between the Ministry of Justice and the State Secretariat for Culture of 15 April 1982 designed to introduce a number of cultural activities in the institutions, especially in the areas of the cinema, music, the theatre, books and the arts;

- The agreement between the Ministry of Justice and the State Secretariat for Sports of 29 May 1985 designed to develop the practice of sports in institutions caring for minors. This agreement, which recognizes the importance of sports, provides for the development of programmes of activities and for the implementation of training and information measures.

552. The establishment of a Secretariat for Youth has made it possible to implement action programmes in cooperation with the Directorate-General of Services for Minors. It has therefore been possible to integrate a group of young people placed in institutions under the auspices of the Directorate-General into the "Leisure Programme" organized by the Secretariat for Youth, which is designed for young people between 15 and 25 years of age during the summer holidays.

553. The Secretariat for Youth and the Institute for Employment and Vocational Training have in turn provided a temporary employment programme for young people (OTJ86) to enable them to gain experience of work by giving them a job for six months (Cabinet Resolution No. 38/86 of 16 May). The Directorate-General for Minors has joined in this programme, having arranged for the cooperation of

60 young people of both sexes in teaching activities at various institutions caring for minors. This experience will bring fresh blood into the institutions and make it possible for the young people concerned to perform a probationary period of work that will open up for them the prospect of a professional future in the institutions. This programme is restarted every year by the Government. In its realization the participation of the Institute for Youth should also be emphasized. This Institute was established by Decree-Law No. 483/88 of 26 December, and its organic structure was determined by Regulatory Decree No. 46/88 of 26 December. The purpose of the Institute is to meet the social, cultural and vocational needs of young people.

Child labour in Portugal

554. Child labour in Portugal has been the subject of diverse criticism at the international level. The affirmations made sometimes exaggerate the phenomenon, giving the impression that recourse to child labour is extremely widespread. Without wishing to minimize the situation, it is appropriate to place it in an objective setting.

555. The battle against child labour must be waged by society as a whole. The control of child labour is the responsibility of the Inspectorate-General of Labour (IGT).

556. In preparing this report the Government has had recourse to a memorandum and reports by IGT for the years 1992 and 1993. Another report on its activities had been drawn up in 1991, but it will be used only insofar as is necessary, because the current reports contain comparative tables tracing back trends since, in some cases, years prior to 1991.

557. The first concept to be grasped when taking up the problem of child labour is that of child labour itself. IGT considers as child labour any activity carried out within a subordinate work relationship by minors aged under the minimum age established by Portuguese law for admission to employment. A broader concept may be used, in which child labour includes child labour in the strict sense mentioned above and all types of legal or illegal situations involving persons aged under 18 years that are based on a work relationship. Most references to child labour are, however, made to child labour in the strict sense of the term.

558. IGT's activities with regard to this problem have generally increased, this increase being reflected over the last few years by a significant rise in the number of inspections carried out in work places. In the period from 1988 to 1992, 1,484 cases were detected and punished. The peculiarities of child labour were determined on the basis of an analysis of these cases.

559. Child labour exists throughout Portugal, especially in the north of the country (Braga district accounted for 45 per cent of cases of child labour and Oporto district for 32 per cent), and in a few peripheral urban pockets. In the country as a whole, the activities in which the greatest number of cases are detected are the clothing industry (33.6 per cent), footwear (20 per cent with a tendency to decrease), building (10 per cent), textiles (8.7 per cent), the hotel trades (7.2 per cent), and wood-working and furniture-making (5.2 per cent).

560. The trend, which will be intensified in the next few years, is towards most cases occurring in the 13 to 14 year age group; cases of child labour at age 11 or under are not important, and cases of child labour at age 12 are not very significant, as can be ascertained from the following data collected by IGT:

(a) In 1991, when the minimum age for admission to employment was 14 years, out of a total of 286 cases, the distribution by age was as follows: up to 10 years, 1 per cent; 11 years, 3.2 per cent; 12 years, 21.3 per cent; 13 years, 74.1 per cent;

(b) In 1992, when the minimum age rose to 15 years, out of a total of 282 cases, the distribution by age was as follows: up to 10 years, 0 per cent; 11 years, 3.2 per cent; 12 years 9.2 per cent; 13 years, 43.3 per cent; 14 years, 44 per cent.

In the first quarter of 1993 it was found that most cases, approximately two-thirds, related to 14-year-olds, thus confirming a trend towards a diminution of the seriousness of the phenomenon as a whole.

561. The main characteristics of child labour are as follows:

(a) Most cases involve children who have completed six years of compulsory schooling;

(b) The remuneration paid is on average approximately two-thirds of the national minimum wage;

(c) Most cases of child labour are found in small-scale enterprises;

(d) Minors are generally employed in light and simple but repetitive work not very suitable for vocational training. The hardest situations occur in the building sector.

562. It should be noted that pictures of children breaking stones for the roadway and sewing parts of shoes at home have been widely disseminated. Such situations are not based on a subordinate work relationship, since most cases occur within the framework of family relations. As such, they escape control by IGT.

563. The IGT memorandum to which reference has been made deals with the causes of child labour. It stresses several which, in decreasing order of importance, are of a cultural, educational, economic and social nature. These causes have been discussed in the Standing Council for Social Reconciliation, an advisory body consisting of representatives of the Government, employers' associations and trade unions.

564. The cultural causes of child labour are as follows:

(a) Many parents, educators and employers of child labour have themselves worked when they were children and are not willing to condemn this type of situation;

(b) There is a family tradition of engaging in a trade before the minimum legal age;

(c) There is resistance to change or insufficient understanding of the requirements of change;

(d) There is an outlook which reduces qualifications to mere skill in performing work, to the detriment of technical or scientific knowledge;

(e) There is social pressure insofar as the most constructive way to get ahead for young people who refuse to study is thought to be employment in work considered to be adequate, regardless of age.

565. The educational causes are:

(a) The slow and tedious way in which the years of compulsory schooling go by;

(b) Theoretical components are dominant in school tuition to the detriment of technical and vocational components;

(c) Between 1973 and 1986 there were no intermediate vocation-oriented courses in preparation for working life;

(d) Shortcomings in the teaching and technical qualifications of teachers, and the inadequacy and/or unsuitability of school facilities and equipment;

(e) Discontinuity between school education and vocational training;

(f) The inadequacy of programmes for integration into working life;

(g) Low levels of education of the adult working population, together with a high level of school drop-outs after the first four years of schooling, the highest incidence being found in the north, along the coast and in the interior.

566. The economic causes are:

(a) The use of child labour because it is cheap;

(b) The use of child labour in simple and relatively undifferentiated tasks in order to save the time of qualified workers;

(c) Difficulties in recruitment on the labour market;

(d) The existence of offers of irregular or seasonal work, always unqualified;

(e) Regional limitations on alternative forms of employment requiring higher or better qualifications.

567. The social causes are:

(a) Poverty;

(b) Families with low incomes and a large number of dependants.

568. In analysing these causes, account must be taken of the fact that they co-exist and are mutually inter-active, some affecting others. One very important cause is the lack of a deterrent legal framework (despite the considerable progress made by the 1991 legislation, which we shall mention below), which, in parallel with ineffective control, constitute factors conducive to the development of the phenomenon. This particular cause is receding in Portugal.

569. Having dealt with the causes of child labour and the scope of the phenomenon in Portugal (after mentioning the extent to which it exists), before proceeding to analyse the legislative measures taken it is necessary to take into account trends in child labour in Portugal and the activities and areas in which it has the highest incidence.

570. In 1991, in a consolidated document on child labour in Portugal, IGT estimated that approximately 15,000 children aged under 14 years were in an irregular situation. Any other data would lack rigour and statistical support. The figures analysed by IGT reveal a reduction in the estimated percentage for the working population (children aged from 12 to 14 years) of approximately 40.7 per cent between 1987 and 1990 and for the overall employed population (total number of children employed in relation to the employed population) of approximately 38.1 per cent between 1987 and 1990. Thus there would have been a significant reduction in the amount of child labour employed.

571. An important point in analysing the phenomenon would be the consideration of indicators such as:

- The improvement and intensification of control activities;
- Activities having widespread incidence;
- Regions (well-defined geographical areas);
- Activities of a seasonal or "traditional" nature;
- The type of structure of the social environment and enterprise.

Curiously, some of these indicators merge with the causes or the constituents of causes of recourse to child labour analysed in the memorandum. We can discover a kind of continuity in these different items of information, a link between them.

572. IGT's consolidated report for 1992 contains a reference to the annual trend for the period 1988-1992, which confirms the information for 1991. It brings it up to date, since it connects with 1992. According to table I, which we reproduce in annex 5 */, the rate of incidence of child labour fell gradually from year to year up to 1992, when it increased. This should not be surprising if account is taken of the changes in legislation in 1991, which established the current minimum age of 15 years. Figures up to 1991 take account of child

labour affecting minors under 14 years of age; in 1992 this age group is extended to include minors under 15 years of age; with a consequential increase in the rate of incidence.

573. In 1992, 2,147 specific inspection visits were made to control child labour (56 per cent less than in 1991), covering approximately 38,824 workers (65.4 per cent less than in the previous year), in which 282 minors under 15 years of age (1.4 per cent less than in 1991) were found to be in irregular circumstances at 212 work places (4.5 per cent less than in 1991) employing 3,957 workers (22.7 per cent less than in 1991).

574. The incidence of child labour among minors under 15 years of age was 7.1 per cent higher than in 1991; this may be attributed to the raising of the minimum age from 14 to 15 years and to the reduction in the number of inspection visits made specifically to check on child labour and in the number of establishments and workers covered.

575. As far as age groups are concerned, it can be ascertained that of the 282 minors under 15 years of age found to be in irregular circumstances, of whom 149 (53.8 per cent) were boys and 133 (47.2 per cent) were girls, approximately 44 per cent were aged between 14 and 15 years, 43.6 per cent between 13 and 14 years, 9.2 per cent between 12 and 13 years and 3.2 per cent between 10 and 12 years. Table II in annex 5 */ gives the distribution for 1990-1992.

576. The incidence by district in 1992 is shown in table III in annex 5 */. Of the minors found working, 86.9 per cent were detected in four districts. In 1992, 88.9 per cent were aged between 10 and 12 years, 83.9 per cent between 12 and 14 years, 90.5 per cent between 14 and 15 years, of whom 60.6 per cent were in Braga (1.2 per cent for 10-12 years, 39.2 per cent for 12-14 years, and 59.6 per cent for 14-15 years); 11 per cent in Aveiro (9.7 per cent for 10-12 years, 83.9 per cent for 12-14 years, and 6.4 per cent for 14-15 years); 9.9 per cent in Oporto (7.1 per cent for 10-12 years; 82.1 per cent for 12-14 years, and 10.8 per cent for 14-15 years); and 5.4 per cent in Viano do Castelo (6.7 per cent for 10-12 years; 60 per cent for 12-14 years, and 33.3 per cent for 14-15 years).

577. Thus between 1991 and 1992 it was possible to confirm the following trends (table IV, annex 5 */):

(a) A reduction both in the overall number of inspection visits and in the number of specific visits relating to work by minors under 15 years of age;

(b) An increase in the rate of incidence of child labour (as from January 1992 the minimum age rose from 14 to 15 years).

578. The other districts in which minors were found working in 1992 were Viseu (79), Coinbra (6), Lisbon (5), Castelo Branco (4), Guarda (4), Leiria (3), Faro (3), Vila Real (2), Bragança (1), Setúbal (1), and Evora (1).

579. With regard to percentage trends between 1988 and 1990 in the districts of major incidence, it has been possible to confirm the following:

Districts	1988-1989	1989-1990	1990-1991	1991/1992 a/
Braga	-29.1	+73.5	+5.6	+12.5
Aveiro	-35.8	+55.6	+114.3	+3.3
Oporto	+49.6	-41.1	-47.6	-48.1
V. Castelo	+100.0	+100.0	+55.0	+66.7
Country	+2.1	+11.5	-13.3	-1.4

a/ The minimum age rose from 14 to 15 years.

580. By activities, it has been possible to ascertain that in 1992 approximately 69 minors (24.5 per cent of the total) were detected in the clothing industry (25.8 per cent less than in 1991), 48 in the textile industry (17 per cent of the total and 65.5 per cent more than in 1991), 40 in the footwear industry (14.2 per cent of the total and 41.1 per cent less than in 1991), 34 in building (12.1 per cent of the total and 41.7 per cent more than in 1991), and 29 in the hotel trades (10.3 per cent of the total and 20.8 per cent more than in 1991); 78.1 per cent of the total number of minors aged under 15 found to be in irregular circumstances in 1992 were concentrated in these five activities (weekly data) (see table V in annex 5 */).

581. Other activities in which minors in irregular circumstances have been detected were the wood-working and cork industries (9), retail commerce (9), personal and domestic service (5), food and drink (1), porcelain, crockery and glass (4), metal products (3), leather (2), graphics (3), extractive industry (1), pottery and cement (1), basic metallurgy (1), electrical equipment (1), wholesale commerce (1), and transport (1).

582. Trends between 1988 and 1991 in the five activities of greatest incidence were as shown in table VI in annex 5 */.

583. In the period 1988-1992, 1,484 minors were detected in irregular circumstances, 33.3 per cent of them in the clothing industry, 18.2 per cent in the footwear industry, 10.5 per cent in building, 10.2 per cent in the hotel trades, and 9.4 per cent in the textile industry. Of the total number of minors in irregular circumstances in 1992, 81.6 per cent were concentrated in these five activities.

584. The data for 1993 are very close. We shall refer to IGT's report on activities for the fourth quarter. In 1993 the number of visits made by IGT increased, and towards the end of the year fewer unlawful situations were detected.

585. The reduction in the number of unlawful situations is probably due to the Government's "Time to Grow" campaign, which consists of information activities designed to combat child labour, and to the Portuguese authorities' effort to ensure that child labour is performed as far as possible in the minor's home.

586. The geographical areas and activities having an incidence of child labour in 1993 are substantially the same.

587. A few tables enable us to see the incidence of child labour, by quarter, from 1990 to 1993, which is interesting because we can follow trends since 1990. Table VII in annex 5 */ shows us the trends by age groups. Up to the fourth quarter of 1991, there is no incidence as far as 15-year-olds are concerned because the minimum legal age was 14 years. As from 1992, the 15-year-old age group is affected because the minimum age rose to 15 years. This implies a sharper breakdown of the figures as from 1992.

588. In conclusion, it seems to us to be possible to gather from this material that child labour in Portugal is concentrated by region, activity and age group. The number of working minors is tending to fall and is probably not as high as some reports tend to suggest.

589. The raising to 15 of the minimum age for admission to employment is important since, by affecting the most important age group, in which child labour has the highest incidence, it will tend to cause the overall numbers to fall, although to a certain limited extent the problem continues to merit the full attention of the Government, which is determined to reduce child labour progressively and, if possible, to eliminate it.

590. These observations having been made, it is now possible to consider the legislative framework for this phenomenon.

591. At the level of international law, attention may be drawn to the following instruments:

- The International Agreement for the Suppression of the White Slave Traffic (ratified in July 1905);
- The International Convention for the Suppression of the White Slave Traffic (ratified in September 1913);
- The International Convention for the Suppression of the Traffic in Women and Children (ratified in June 1925);
- The Slavery Convention (ratified in October 1927);
- The International Convention for the Suppression of the Traffic in Women of Full Age (ratified in January 1937);
- The International Covenant on Civil and Political Rights (ratified in July 1978);
- The International Covenant on Economic, Social and Cultural Rights (ratified in July 1978);
- The Convention on the Rights of the Child (ratified in September 1990);
- The European Social Charter (ratified in August 1991);
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (ratified in October 1991);

- ILO Convention (No. 102) concerning Minimum Standards of Social Security (ratified on 3 November 1992).

592. Decree-Law No. 396/91 of 16 October, which sets the minimum age for working at 15 years, provides that this age will be set at 16 years as from 1 January in the year following that in which compulsory schooling lasting nine years has been completed by the first pupils to which it will have been applied.

593. For this reason ILO Convention (No. 138) concerning the Minimum Age for Admission to Employment is not expected to be ratified until 1966-1997, the year in which the 9-year cycle of compulsory schooling will be completed and in which the age of 16 years will become the minimum age for child employment.

594. At the level of the Constitution, article 74(4) prohibits by law child labour during the age of schooling. Article 69 of the Constitution, concerning the protection of children, may be construed as including the protection of minors with regard to work.

595. Decree-Law No. 396/91 of 16 October allows young people to perform light work, and only light work, subject to a timetable that does not interfere with their schooling.

596. Under the labour legislation that determines working conditions, account must also be taken of Decree-Law No. 441/91 of 14 November concerning the legal arrangements for safety, hygiene and health in the work place.

597. Further to Decree-Law No. 396/91 of 16 October and Decree-Law No. 441/91 of 14 November, the Government drew up Order No. 714/93 of 3 August and Order No. 715/93, also of 3 August. These texts provide a list of the work that is considered light and that may be performed by minors, and of work that is prohibited for minors or whose performance is subject to conditions.

598. Thus minors are allowed to perform light work consisting of simple and well-defined tasks which require only elementary knowledge and do not require any physical or mental effort that endangers their health or development.

599. Heavy work is prohibited. Also prohibited for minors are activities which expose them to physical, chemical and biological agents which form part of forbidden manufacturing processes or of processes in which working conditions are particularly hard. Work which is considered heavy and is therefore prohibited for minors is listed in an annex to Order No. 715/93.

Article 11

600. With regard to Article 11 - adequate standard of living, housing and food - we shall deal generally with the current situation of the Portuguese economy, and then with the measures adopted and the provisions existing in respect of housing and food. We shall also refer to the steps that are being taken to combat poverty and exclusion in Portugal.

The economic situation in Portugal

601. On the question of the economy, taking as our reference the document prepared by the Central Bank (the Bank of Portugal, entitled "Monthly summary of

the economic situation - January 1994"), we shall deal in turn with the international economic situation, the economic situation in the framework of the European Union, refer to the White Paper of the Commission on economic growth, and look at the Portuguese economic situation.

602. The recession has been the dominant feature of the Western economies, among which Portugal has its place. In 1993, only the United States and the United Kingdom experienced any definite expansion and recovery of activity. In the other Western countries GDP showed stagnation or a downward evolution. The recession which characterized most of the economies of Europe in this period brought about a contraction in the volume of international trade, a contraction particularly felt in the framework of the European Union, of which Portugal is a part.

603. According to GATT figures, the growth in the volume of world trade was less than 3%, below the level of 4% recorded in 1992. OECD forecasts point to a slight upturn in GDP in the Western countries in 1994, though only very slight, especially in Germany and Japan.

604. The effects of crisis have been felt in all the countries of the Community and by the population. Rates of unemployment in the various countries of the Community were high in 1993, and although 1994 is a year of slight recovery in GDP in the Western countries, the crisis in employment continues, with forecasts predicting a rise in the rate of unemployment.

605. The slow-down in economic activity and the level of unemployment have led to a fall in tax revenue and an increase in social security expenditure and hence to high budget deficits.

606. A few figures will illustrate this situation: the rate of unemployment rose to 10.8% of the active population in November 1993 (as compared with 9.8% in November 1992), while industrial output in October 1993 was 3.1% lower than in October 1992. Prices rose in the European Community from 3.2% to 3.3% from November to December 1993.

607. The European Union came into legal existence with the entry into force on 1 November 1993 of the Treaty on European Union. In practice, the economic measures (criteria of nominal convergence, joint policy of Member States on currency stabilization, reduction of budget deficits and public debt to the levels foreseen in the Treaty, interest rate policy allowing for the independence of central banks, and criteria for effective convergence - efforts to reduce the existing structural disparities between Member States that can only be carried out in the long term) foreseen in the Treaty on Union were taken immediately the Treaty was signed, on 7 February 1992, and with this effort towards convergence the countries of the European Community have tried to adhere to the calendar laid down in the Treaty.

608. Thus, the second phase of Economic and Monetary Union (EMU) began on 1 January 1994 with the establishment of the European Monetary Institute (EMI), a cornerstone of the system moving towards conclusion of the European system of central banks and the European Central Bank that will administer liquidity in the economy of the Community as a whole and thus contribute to economic expansion in a framework of stability between the currencies that are due to be

replaced towards 1996 or 1999, according to the Treaty, by the single European currency, the ECU.

609. We are thus at present in the second phase of EMU, which could influence the resumption of expansion after the situation of recession we are currently experiencing.

610. The Union or the economic policy of the Union has not been beneficial in the context of the economic crisis of the 1990s. The year 1992 saw the end of the European monetary system that had ensured currency stability since 1979 (because, it is said, of the uncertainty about ratification of the Treaty on Union felt by the financial markets in 1992), 1993 was the worst year of the crisis, to which it is also said that efforts towards convergence, acting as a brake on economies, may in turn have contributed.

611. In spite of the rise in unemployment for 1994, it seems certain that signs foreshadowing an albeit modest recovery from the crisis may be apparent in 1994. Europe will then be able to continue its evolution.

612. Portugal has also felt the effects of the crisis and appears to be the first country to be emerging from it. It has also made an effort towards convergence but has benefitted since 1994 from the Community Support Framework resulting from the "Delors Plan II" (a plan not included in the Treaty but providing, like the "Delors Plan I", also not included in the Single European Act at the time, the funds needed to implement the necessary effort towards real convergence), consisting in duplication of structural funds up to 1992. The improvement of infrastructure and of fabric 650 resulting from this plan will certainly have an influence on the level of employment in Portugal and on improvement of the living conditions of the people living in Portugal. The process of European union is thus extremely important in regard to the adequate standard of living that is the object of Article 11 of the Covenant.

613. Conscious of the need to have an economic policy adapted to circumstances, the countries of Europe invited the Commission to draw up a report on the strategy to be adopted in the medium term for growth, employment and competitiveness. The White Paper on economic growth was approved by the European Council on 10 and 11 December 1993.

614. With respect to economic growth, the White Paper concludes that the mean annual rate of growth compatible with the maintenance of employment levels should be in the region of 2.5%. An increase in investment is proposed, accounting for 23 to 24% of GDP, as compared with 19% at present.

615. With regard to competitiveness, this can no longer be viewed solely in the perspective of reductions in costs. To reduce wages cannot be the only response to competition from countries where wages are not very high, since this leads to a deterioration in living standards and is a threat to European social structure. A strategy aiming to improve competitiveness should, essentially, be based on investment in human capital and a better integration of the different levels of competitiveness (research and innovation, organization of work, product quality, new markets).

616. Four paramount objectives need to be attained in order for Community competitiveness to enable the highest possible level of employment to be attained:

(a) The insertion of European enterprises into the new context of globalized independent competition;

(b) The exploitation of competitive advantages connected with the "dematerialization" of the economy;

(c) Facilitation of sustainable industrial development;

(d) Reduction of the discrepancy in the pace of evolution of supply and demand.

617. A complementary strategy focuses on small and medium businesses, to facilitate adaptation to the new demands of competitiveness, in order to ensure that economic agents are mobilized in the right way towards growth, competitiveness and employment.

618. Since small and medium businesses account for 70.2% of employment in the Community, an integrated programme for SMBs has been established, with the objectives of:

(a) Identifying and reducing restrictions of fiscal, social, administrative, financial or other origin that constitute an obstacle to the creation or continuation of SMBs;

(b) Strengthening and ensuring adequate availability of financing to SMBs and improving relations between financial institutions and SMBs;

(c) Creating incentives for cooperation among businesses and improving the quality of management;

(d) Creating incentives for the development of businesses with good potential for growth and developing employment in small and medium service businesses.

619. With regard to employment, action in education and training is needed, from which positive effects need to be felt in three areas:

(a) Efforts to combat unemployment through the qualification of young people and "requalification" of workers overtaken by increases in productivity as a result of technological progress;

(b) Stimulation of growth by strengthening the competitiveness of businesses;

(c) Achievement of growth with greater employment, through better adaptation of skills to changing markets and social needs.

620. To reduce unemployment, opportunities for employment must be maximized. The Commission proposes continuous alteration in the structure and time of work, accompanied by adjustments in the incidence of taxation in order to encourage

the creation of new jobs, improve access to the labour market, and improve reserves of human capital so as to optimize Community competitiveness and anticipate and accelerate the development of new jobs and new activities.

621. One point on which action is needed to encourage the maintenance and creation of jobs without reducing wages is a decrease in the non-wage costs of labour, i.e. taxes and compulsory social contributions which affect both workers and employers. These charges represent 40% of the Community's GDP for labour and are higher than those of Japan or the United States. The high level of the non-wage costs of labour has a deterrent effect on employment, encourages the substitution of capital for labour and furthers the parallel economy. Non-wage costs need to be reduced by 1% or 2% of the GDP. Environmental taxes, taxes on consumption (an increase in VAT) and on capital yields should be encouraged so as to be able to reduce non-wage costs without reducing tax revenue.

622. Briefly, the report of the Bank of Portugal containing the monthly summary of the economic situation shows a drop in the growth of consumer prices; a drop in nominal wages in the public and private sectors, regarded as indispensable to ensure the reduction of inflation, competitiveness and sustained growth. The Bank of Portugal brought down its intervention interest rates on the money market. This led to a general lowering of interest rates.

623. More particularly, private consumption maintained a positive rate of real growth in 1993, although this was less than in 1992.

624. Investment in manufacturing fell sharply in 1993, with certain sectors of the transformation industry especially affected. These included textiles, clothing, footwear, "basic metallurgical industries" and "paper and graphic arts". A slight improvement is expected for 1994.

625. Investment in construction (building) stagnated in 1993.

626. Investment in infrastructure also fell in 1993. With regard to the sale of motor vehicles, specifically, the sale of this type of goods declined significantly, while the importation of vehicles from third countries as compared with those from the European Community fell by 8.5% from January to October. Domestic production of capital goods also declined.

627. The monthly cyclical survey of the transformation industry nevertheless reveals a tentative upturn as from the last quarter of 1993.

628. Wages fell in general in 1993.

629. Inflation also fell, reaching a level of about 6.3% in January 1994.

630. The number of unemployed workers rose in terms of the numbers signing on at job centres. This increase would appear to be due to workers in search of a new job.

631. The balance of services for 1993 showed a surplus, thanks to the surplus balance under the heading of "travel and tourism" (149 thousand million escudos).

632. The balance of non-monetary capital was also in surplus (245.1 thousand million escudos) up until September 1993. This is essentially due to the entry of long term external credit, but also to direct investment (166.6 thousand million escudos) and investment in bonds (284.2 thousand million escudos).

633. Official liquidity reserves (excluding exchange rate fluctuations) increased during the month of January by US $ 48 million. At the end of the month, the balance (with gold valuation at market prices) was US$ 21,839 million.

634. From January to November 1993, the financing requirements of the public administrative sector amounted to 896.3 thousand million escudos, exceeding the sum for the previous year by 350.2 thousand million escudos. In November the public administrative sector financing requirement was 108.2 thousand million escudos, and was met by drawing upon deposits from the Bank of Portugal. The Administration became indebted, having issued bonds to the value of about 40 thousand million escudos in medium- and long-term Treasury bonds. The expenditure and revenue of the State were nevertheless balanced, in relation to the supplementary budget, in 1993. But the Social Security attained a deficit of 150 thousand million escudos, partly due to the considerable volume of debts owed by taxpayers.

635. In December 1993, the growth of total domestic bank credit, though still rising, was nevertheless less than in 1992 at the same period. Money supply did not increase much in December 1993, less than in December 1992.

636. The escudo remained stable throughout the month of January. In this context, the Bank of Portugal continued to gradually reduce the intervention rate, which contributed to the lowering of the interest rate.

637. The observations that may be made from the summary of cyclical activity are that there has been a reduction in economic activity, presenting a favourable aspect in the shape of a drop in inflation and a decrease in money supply (which may permit a recovery in economic activity, specifically as a result of lower interest rates) and an unfavourable aspect in the shape of the crisis experienced by industry, which points to the need for adaptation, taking care to minimize the effects of this adaptation on wages and levels of employment. These observations appear to coincide with the observations made for the European economy, and Portugal is in any case essentially oriented towards the countries of the Community. The timid economic recovery that now seems to be imminent in Europe also appears to be incipient in Portugal. National and Community measures of restructuring and investment will contribute, we hope, to an improvement in the quality of life in Portugal and thereby help Portugal to meet its obligation under Article 11 of the Covenant to ensure an adequate standard of living for all its nationals.

The alleviation of poverty

638. Notwithstanding favourable economic evolution, the structural changes in the economy have led to the appearance of worrying situations of poverty and social exclusion which it is being attempted to combat.7/

639. In Portugal, Community measures coexist with national measures and joint measures between the Community and Portugal are actions where there is Community

financing alongside national financing. Community measures emanate from the European observatory of social exclusion, while national measures are coordinated by the Poverty Commissariats under the authority of the Ministries of Labour and Social Security. There is a Poverty Commissariat in the North Region (north of the Tagus) and a Poverty Commissariat in the South Region (south of the Tagus). We shall allude briefly to the activities undertaken by the two Commissariats.

640. The North Regional Commissariat to combat poverty has organized its action by geographical area and by needs of the populations. It has intervened in actions in partnership with local organizations of various types.

641. At Aveiro, it has organized integrated development projects, specifically at Aguada de Cima where the problems were to do with education, maternal and child health, vocational and sociocultural training (social marginalization, child labour, undifferentiated labour, alcoholism, prostitution); at Bairro do Grine, with the same fields of action; and a comprehensive programme to combat family disintegration, the lack of primary health care, undifferentiated labour, alcoholism and housing problems. This programme aims to promote family development by giving families the means to be self-sufficient. In Braga the same type of actions have been undertaken, with an attempt at social insertion of gypsies as one of the objectives of the programme.

642. Emigration has also been one of the concerns of the Commissariat, whose aim is to settle populations and prevent desertification. Adaptation of the workforce in terms of training to the labour required has also been the object of actions undertaken.

643. The "Salus" project should be mentioned. The area of this intervention is Vila Nova de Famalicão and it concentrates on alcoholism and multiple drug dependence. One of the concerns of the project is that the cycles of alcoholism and drugs engender situations of human degradation that lead into cycles of poverty.

644. In Bragança, the Commissariat has organized a project to combat poverty among the handicapped. Among other objectives, it is concerned to promote vocational training and the insertion of these people into the world of work in order to reduce their dependency and the poverty engendered by their situation.

645. In Coimbra, development projects have been undertaken in the district of Conchada, with a programme of care for women in "risk situations", a community project for the economic and social integration of the persons and groups with least resources by the municipality of Lousa, and projects to combat poverty in Miranda do Corvo, Penela and Poiares.

646. In Guarda, the quality of housing is being improved through the ZUD or "urban area development" project; the level of literacy, housing, vocational training and forest rehabilitation are being developed in the municipalities of Fornos de Algodres and Aguiar da Beira.

647. In Porto, actions for youth, social housing and social reinsertion have been undertaken, covering five villages with the same type of problems. Telões, Lordelo (municipality of Paredes), Santa Marinha (municipality of Gaia), Santo Tirso and Massarelos are the localities covered by these programmes of action.

648. Several other localities and districts of large cities, as in Porto, have been covered by these programmes, which, in the North Region, have combined national with Community action, specifically the Community Programme for the Social and Economic Integration of Groups of Persons with Low Resources for 1989-1994.

649. The North Region Commission to combat poverty, and no doubt the South Region Commission too, are now supported by the Medium Term Programme of Action Against Exclusion and For the Promotion of Solidarity for 1994-1999 (final document of the Commission of the European Community COM(93) 435 of 22 September 1993).

650. The Programme of the South Region began its activities in October 1990. It has given rise to 51 measures to find and catalyse energies, people and resources to enable a break with the mechanisms of social exclusion. Social intervention requires:

- Knowledge of the needs, potential and capacities of groups and communities;

- The creation of a network of institutional partnership ensuring the participation of the various levels of the public sector, together with the private sector, and ensuring continuity of the actions undertaken beyond the duration of the projects;

- The elaboration of an integrated multisectoral plan;

- The local involvement of groups or communities in efforts to emerge from their situations of poverty.

The South Region Programme has, up to 31 December 1992, invested a total of 3,700,000,427 escudos.

651. "Diagnosis, divulgation, partnership, organization and support to projects" covers the comprehensive range of activities needed to set up the Programme. In this case, this involves studying the mechanisms of social exclusion and the needs and aspirations of groups and communities; establishing a network of partnership that has enabled integrated and multisectoral plans of action to be drawn up; finding ways of permitting participation by the population; giving concrete shape to the conditions needed for the programme to function (formation of the team, installation, equipment and instruments of registration).

652. The second area of intervention, "creation of infrastructure and services", has involved the creation of infrastructure and the adaptation of existing facilities to promote greater opening to the local community and the development of activities recognized as necessary by the community itself. With the objective of creating and giving impetus to structures for family support, organized activities and participation conducive to development and change, 14 community centres and other structures have been set up, providing in all for:

(a) 4,856 children and adolescents:

- 29 wet nurses for 116 infants;
- 13 crèches, kindergartens and socioeducational centres for 478 children;
- 8 new premises for "workshops" and the opening of rooms in social welfare institutions and schools for 3,468 children and adolescents;
- 2 temporary reception centres for 24 children at risk, pending their integration;
- 1 residential unit for 15 adolescents at risk, pending their social integration;
- 2 play centres, for prevention;
- 6 youth clubs with organized activities for 450 adolescents and 105 children, with preventive actions;

(b) 2,028 elderly people:

- Home support services for 488 dependent persons;
- 21 convivial day centres for 1,109 isolated elderly people;
- 7 homes, including 3 for the severely dependent: 439 elderly people;

(c) 109 situations of aggravated social risk or marginality:

- 2 temporary reception centres, 54 men, ex-prisoners and homeless;
- 2 residential units, 55 persons - homeless and unmarried mothers, to be integrated socially;

(d) The general population

- Home support services - 544 persons in vulnerable situations or handicapped;
- Information/referral/reception service, linking up with other government sectors, 1,990 persons;
- Premises for organized activities and training - open to the population;
- Sports facilities.

653. It is in this area that the greatest efforts have been made and in this area that the greatest volume of the funds available for investment have been

spent, i.e. 1,715 thousand million escudos, or 51.6% of the total. The social partners have collaborated but their contribution is not included in this figure. The local authorities and private individuals have made sites available and this type of initiative has extended to the preparation of projects, the provision of facilities and the mobilization of human resources.

654. The Social Security, through the Regional Social Security Centres, has gradually assumed responsibility for the continuity of projects, through protocols of cooperation concluded with private social welfare institutions which make it possible to finance these actions on a permanent basis.

The third area of intervention, "improvement of economic conditions", has encompassed a series of initiatives to improve the level of productivity of the groups with least resources. These include:

(a) Encouragement of training - 1,616 persons. An attempt to reawaken lost vocations, change habits of personal organization and work, aimed at persons with no aspirations or motivation;

(b) Vocational training actions - 2,193 persons, of whom 70% successfully completed their courses;

(c) Support for employment - 175 persons (creation of 30 family businesses and purchase of 3 fishing boats);

(d) Support to associative movements and cooperatives - 2,015 persons.

656. A total of 622 jobs have been created as a result of these actions, including 266 self-employed (independent), 356 employed by others and 88 in the social facilities that have been created. In the sequence of referral and social support to families provided by the projects in the area of intervention "response to problems of an urgent nature", 92 further persons have found jobs (88 working for others and 4 self-employed).

657. The area of intervention "improvement of welfare conditions" has consisted essentially in educational actions in the fields of health and hygiene. Primary health care and initiatives to improve housing and its surroundings are helping to improve the negative self-image of the populations in question.

658. In the field of education for health, 4,253 persons have been covered, while 2,825 persons (630 families) have received help with housing, including:

(a) Construction of 63 dwellings - of which 32 with support for self-building;

(b) Interior renovation and improvement of 202 houses, one of which intended for rural tourism;

(c) Support for household appliances for 74 families;

(d) Re-accommodation of 11 families in social housing;

(e) Preparation for the re-accommodation of 90 families in social housing;

(f) Acquisition of two sites for housing - one for 28 dwellings and another for 8 apartment blocks.

659. Improvement of the surroundings of housing has ranged from the cleaning up of streets and green spaces, the electrification of houses, in addition to general electrification in certain areas by the partners of the Central Administration (island of Culatra), to the installation of sewerage and piped water supply. Support has also been given for a small dam and a rural water reservoir, community initiatives to create areas of tourist attraction as well as to preserve the natural heritage of the region.

660. The fundamental objective of the area of "organized activities" has been to support and develop the capacities of groups and communities, to strengthen local networks of solidarity through intergenerational, interpersonal and interethnic conviviality, strengthening self-esteem and cultural identity. In the field of "promotion of socioeducational activities", schools have widely opened their doors to the population and experimental, advisory and vocational guidance facilities have been created. Reference must also be made to the inclusion of extra activities in school curricula and experimentation with other forms of teaching, such as the "unity in diversity" project in the school at Buraca-Amadora, with high rates of educational success.

661. "Food support" has also been one of the activities that has contributed decisively to the reduction of educational failure in the framework of the projects. Still in this area of activity, basic education for literacy and family formation has been given to 1,274 persons, opening up perspectives for a more rewarding active life and establishing new habits of personal and family organization.

662. The area of intervention "resolution of problems of an urgent nature" covers the reception and referral of families with difficulties of insertion (3,305 persons) and links up with other government services, and reception and assistance in situations of aggravated social risk or marginalization, such as "street children", the "homeless", "ex-prisoners", "young people in danger or situations of marginality", "unmarried mothers" and "the handicapped". Actions have comprised:

(a) Reception at the rehabilitation and reinsertion centres created by the projects - 148 persons;

(b) Integration into families and institutions - 235 persons;

(c) Attendance at vocational training courses - 36 persons.

663. Mention must also be made of the "food bank against hunger" which, in conjunction with 61 social welfare institutions, has so far (May 1993) provided food support to 15,140 persons.

664. The partners in these actions have been: the regional social security centres; the employment and vocational training centres; the regional directorates of education, educational extension facilities and local schools; health centres and district hospitals; civil governors; the agricultural extension authorities and the tourist administration; the maritime and fishing authorities; local authorities and housing cooperatives; the Youth Institute;

the Institute for Social Reinsertion; private social welfare institutions; the Santa Casa da Misericordia and other associations, enterprises and business associations.

Housing

665. With regard to housing, the years 1991 and 1993 have brought substantial updating and some innovations in line with the spirit of the Covenant.

666. Decree-law No. 445/91, of 20 December, established the regime for the licensing of private building. Areas included in detailed plans or with permits for plots, areas with an urbanization plan, areas with municipal development plans and areas not included in municipal development plans are subject to licensing by the municipal authorities, and in some cases by the central administration. Areas covered by municipal master plans are also subject to licensing. Licensing is a unitary process, consisting in the granting of permission to build, with the details recorded in a special book and endorsed by the competent authorities.

667. In chronological sequence with this Decree-law, Decree-law No. 448/91, of 29 November, regulates the occupation of urban land. This is done through division into urban plots within development plans, subject to measures to protect the environment, natural resources and the quality of life. Division into urban plots is intended to provide for the construction of new residential housing, and the urbanization of the land is foreseen and should be coordinated with environmental services. The process involves division into unitary plots, requiring permission and limited to areas considered suitable for urbanization; the process is also public, any interested person may intervene and a certain amount of control is exercised over the promoters of urban development work.

668. This regime brings an improvement in the quality of life of residents in urban areas. But consideration of housing in terms of Article 11 of the Covenant is not complete unless we refer to the regime for rented urban housing and measures of social housing. The new regime governing rented housing was instituted in Decree-law No. 321-B/90 of 15 October which provides for free rents, conditioned and supported depending on the economic security of the tenant and the length of time the tenancy contract has been in force. Provisions for rent subsidies and maximum rents are included. Every year, a ministerial Order determines the coefficients for the updating of rents.

669. Housing policy is coordinated with policy on youth. Decree-law No. 292/90, of 21 September, provides for access to subsidized loans by young people to buy homes. It alters Article 13 of Decree-law No. 328-B/86 by enlarging access to subsidized loans for young couples: the sum of the spouses' ages must not exceed 60 years, neither partner being over 30, and a single person must not be over the age of 30 years. Decree-law No. 162/92, of 5 August, provides for a rent incentive system for young people.

670. Decree-laws No. 328-B/86, of 30 September, and No. 224/89, of 5 July, establish a system of loans for the acquisition, construction, improvement and renovation of homes, as principal or secondary residence or for letting, and for the purchase of land for permanent personal residence. Decree-law No. 328-B/86 has been altered by Decree-law No. 250/93, of 14 July, which established the new rules on home loans. This Decree-law introduces the possibility of obtaining

financing at fixed rates of interest. As stipulated in Order No. 672/93, of 19 July, the fixed interest rates will apply for a minimum duration of three years.

671. Decree-law No. 197/92, of 22 September, establishes the "Recria" programme containing special measures of support for the recovery of rented buildings.

672. Decree-laws No. 171/79, of 6 June, and 10/91, of 9 January, also provide for the financial renting of buildings for personal occupation by tenants.

673. Provision is made for the financing of housing projects in Decree-law No. 150-A/91, of 22 April, and for home loans in Decree-law No. 150-B/91, of 22 April.

674. Social housing measures were introduced in Decree-laws Nos. 162/93, 163/93, 164/93, 165/93, 166/93 and 167/93 of 7 May. These texts introduce important changes and clarify the housing support system, focusing on moderate cost housing.

675. Decree-law No. 162/93 provides for financial participation by the State in the building of low cost homes. Rules of temporary non-transferability are established and the text defines the conditions for the financing of building cooperatives by the State.

676. Decree-law No. 163/93 is a crucial text. In it priority measures for areas of housing shortage, i.e. Lisbon and Porto, are adopted. In regard to financing, provision is made for agreements between the State and the municipal authorities. The object of such agreements is to eliminate slums and build decent housing. This text is part of the national programme to combat poverty launched by the Government in 1991, and finds its place within this programme as part of the special programme on housing in the metropolitan areas of Lisbon and Porto.

677. Decree-law No. 164/93, of 7 May, stipulates the conditions in which land is to be made available for housing. This land belongs to the Government Institute for the Management and Allocation of Land for Housing, which makes it available to interested parties. These parties are civil building contractors who may obtain land from the Institute by public tendering, in which they undertake to sell the housing they build at low prices, and also submit proof of financial soundness, i.e. that they have little recourse to subsidized loans.

678. Decree-law No. 165/93, of 7 May, provides for the concession of loans to private civil construction companies for the building of controlled cost housing through the signing of housing development contracts. Homes will be sold for permanent personal occupation by the buyers and letting for occupation under the controlled rent scheme. They may also be sold to municipal authorities or private social welfare institutions for letting as homes under the supported rent scheme. They are not transferable for a minimum period of five years.

679. Decree-law No. 166/93, of 7 May, institutes the regime for the updating of rents for social housing. Supported rents are rents for housing owned by the State, autonomous government agencies, government institutes, the Autonomous Regions (Azores, Madeira), municipal authorities and private social welfare institutions.

680. Finally, Decree-law No. 167/93 of 7 May institutes the system of disposable property. This involves the construction of low cost homes that will gradually be acquired by their occupants through the payment of regular instalments.

Food

681. Article 11 of the International Covenant on Economic, Social and Cultural Rights stipulates the realization of an adequate standard of living. This adequate standard of living specifically comprises two aspects: the guarantee of adequate housing and of adequate food, with measures ranging from freedom from hunger to the international distribution of food. We shall refer here to measures at the domestic level. Before we consider the issue of food, it should be placed in its legal and institutional framework.

Legal and institutional framework

682. Portugal has adopted an administrative structure for agriculture and agricultural programmes in conformity with its membership of the European Community and linked with complementary national measures. The existence of measures preceding accession to the European Communities (the Treaty of Accession, signed in 1985, entered into force on 1 January 1986) is a fact. These measures, however, already anticipated accession and set out to adapt agricultural structures and production to Community lines, or were adopted in readiness for accession, as with the regime for group farm enterprises (Decree-law No. 513-J/79, revoked by Decree-law No. 336/89, of 4 October, which defines these enterprises with a view to their integration into a national agricultural policy adapted to the common agricultural policy).

683. The process of European Union launched as from 1 November 1994 will certainly change things, and the GATT agreements may also bring innovations. Portugal is adapting to change, and important measures, to which we shall refer, have been taken to modify the existing administrative structure. Reference will also be made to measures relating to food quality. Legislation for the execution of international commitments will only be mentioned where necessary: much of this legislation was designed to meet the objective of the Internal Market as from 1 January 1993 and thus relates to that objective, while the new legislation that is appearing is as yet fragmentary and addressed to specific situations.

684. Portuguese agriculture has undergone profound transformation since accession to the European Communities, while at the same time, the Government has embarked on a reform of the Civil Service in accordance with three criteria: effectiveness and efficiency in administration, protection of the legitimate rights and interests of citizens, and rationalization of the human and financial resources of the Civil Service.

685. It is in this context of change in agriculture and administrative reform that recent legislation to modify the existing administrative structure has been introduced. It is composed of Decree-laws Nos. 94/93 (Organic Law on the Ministry of Agriculture), 95/93 (Organic Law on the General Secretariat for Agriculture), 96/93 (Organic Law on the General Directorates of Agriculture), 97/93 (Organic Law on the Institute of Agrarian Structures and Rural Development), 98/93 (Organic Law on the Institute of Agricultural Marketing and

the Food Industry), 99/93 (Organic Law on the Institute for the Protection of Agricultural and Food Products), 100/93 (Organic Law on the Institute of Forestry), 101/93 (Organic Law on the National Institute of Agricultural Research), 102/93 (Organic Law on the Vine and Wine Institute), all of 2 April.

686. The functions of the Ministry of Agriculture are to participate in the elaboration of national agricultural policy, which certainly includes efforts to ensure an adequate standard of living for all in terms of food (a proper food ration), although Portugal is not self-sufficient in agricultural production; and the evaluation and control of economic activities relating to the production and distribution of foodstuffs, which certainly includes control of food quality (Decree-law No. 94/93, Article 2).

687. The Ministry of Agriculture is divided into administrative departments with responsibility for implementing the functions of the Ministry of Agriculture throughout the country. These are the General Directorates of Agriculture, active in the provinces of Portugal (the Administrative Regions that would provide the administrative underpinning for these provinces have not yet been created, although provision is made for them in the Constitution; the districts, which were the old local administrative divisions, still exist but do not correspond to the provinces of Portugal, which are larger). The General Directorates of Agriculture (Decree-law No. 96/93) have a very important role to play since they bring the directives of the Ministry of Agriculture to the local level and gather awareness (which should influence the steps to be taken by the Administration) of regional problems.

688. According to Article 1 of Decree-law No. 96/93, of 2 April, the General Directorates of Agriculture are services whose task is to give direct support to the farm and food sectors in accordance with the national policy determined for these sectors. Among their functions (Art. 2), emphasis must be laid on study of the needs of the farm and food sectors in the regions and the involvement of the General Directorates in regional development plans whose implementation will affect the regions; implementation of national policy and objectives for the farm and food sectors; analysis of investment projects and actions of a sociostructural type not included in such projects, to assess their conformity with the legislation in force; implementation of the farm and food components of integrated regional development plans; technical support to farmers; promotion of rural infrastructures and measures for soil protection and conservation; promotion of improved structures of land ownership and the modernization of agricultural structures and enterprises; experimental and demonstration activities for the development of animal production; promotion of vocational and technical training for farmers, and the collection of information.

689. The penetration of the common agricultural policy is being felt: the General Directorates of Agriculture have units that are intended to coordinate the implementation of the common agricultural policy at the regional level (Art. 4 of Decree-law No. 96/93). One of these is the Directorate of Marketing Services and Farm Guarantees, which organizes the penetration of common marketing organizations at the regional level, in the framework of the common agricultural policy. This Directorate is composed of the Division of Marketing, the Division of Farm Guarantees and the Division of Legal Packaging of Produce. The role of the Division of Farm Guarantees in giving effect to the Community policy of subsidies and market price support should be highlighted. The Regional Directorates of Agriculture have many other activities, ranging from

sociostructural measures (they also implement the Community's structural transformation programme) to animal health, food hygiene and quality, and improvement of the rural environment.

690. In addition to the General Directorates, there are several specialized institutes that depend directly on the Ministry of Agriculture, covering specific sectors of activity (Decree-law No. 94/93, Art. 3 No. 4). These are the Institute of Agrarian Structures and Rural Development, the Institute of Agricultural Marketing, the Institute for the Protection of the Agricultural and Food Industry, the Vine and Wine Institute, the Port Wine Institute, and the Agency for the Control of Community Aid to the Olive Oil Sector.

691. As well as the restructuring of the agricultural administration, we shall also refer to food quality in Portugal, which is covered by the Institute for the Protection of Agricultural and Food Products.

692. The Institute of Agrarian Structures and Rural Development (Decree-law No. 97/93) is a legal entity possessing assets of its own. Its functions are to study and develop national agricultural policy, integrating throughout with the central administration. It has its own organs and technical and administrative support services, including the Division of Programming and Financial Management, and operational services directly linked with agriculture, from the Directorate of Information Services to the National Horse-breeding Service (National Stud), as well as the Division for Agricultural Policy Evaluation.

693. The Institute of Agricultural Marketing and the Food Industry (Decree-law No. 98/93) is also a legal entity with its own assets. Its functions (Art. 2) are to support the Ministry of Agriculture in the formulation of agricultural marketing policy, essentially, and policy relating to the food industry (Art. 2(a) of Decree-law No. 98/93).

694. The Institute for the Protection of Agricultural and Food Products (Decree-law No. 99/93), which is also a legal entity with its own assets, deals with the formulation of policy for the protection of agricultural produce, and with food hygiene and quality. By its control activities, it ensures respect for the rules of hygiene on farms and is responsible for certification as prescribed by the law.

695. The Institute of Forestry is also a legal entity with its own assets and its functions are to define national forestry policy, ensure balanced management of forests, the dissemination of appropriate technologies for the conservation of soil and water resources, and ensure the quality and proper use of forest resources. Among the directorates of which it is composed, mention should be made of the Directorate of Hunting, Fishing and Apiculture Services and Other Forest Resources.

696. The National Institute of Agricultural Research is the agency responsible for devising, coordinating, implementing and controlling research and development activities and training in the fields of agriculture, animal husbandry and forestry in the framework of the Ministry of Agriculture (Decree-law No. 101/93, of 2 April).

697. Wine is a sensitive domain in Portugal. Hence the creation of an Institute not covering the whole of the agricultural field but limited to wine

(Decree-law No. 102/93, of 2 April). Under the terms of Article 5 of Decree-law No. 102/93, of 2 April, the functions of the Vine and Wine Institute are to draw up projects for the sector, for support, control and oversight at the national level, in regard to both vine growing and the production and marketing of wine and derivative products. The Vine and Wine Institute is the intervention agency for the common organization of the wine market (in terms of Community requirements) and the liaison body with the European Community for the wine sector. It also chairs the national commission responsible for representing Portugal at the International Vine and Wine Office. It has the competence to propose standards for the regulation of the wine market, and of vine growing. It is also competent to promote wine, through the certification of certain wines (Article 7 of Decree-law No. 102/93) and control and oversight in the wine sector.

Food quality in Portugal

698. The Institute for the Protection of Food Products has kindly provided us with some information on food quality in Portugal. Quality is the natural complement to sufficiency of food. If steps are taken to ensure that those with least resources, in particular, and the population in general receive sufficient food, this food must also be of adequate quality. The Institute for the Protection of Food Products, among its functions mentioned above, exercises control over the quality of food products.

699. A first area of activity is control of the production of industrial establishments making food products. This involves technical assessment of industrial projects in regard to conditions of hygiene, and the issue of a health permit after inspection of the production unit.

700. A second area of activity concerns industrial establishments for products of plant or animal origin. This again involves visits of inspection, not for the issue of permits but to ensure regular checks on the conditions of hygiene in which these establishments are producing foods.

701. A third area of activity is regular or occasional control on request; this consists in chemical, technical and microbiological laboratory analyses of food products. This activity divided into seven fields:

(a) analysis of vegetable oils, sweeteners, food colouring agents, milk and its derivatives, meat derivatives and cereals;

(b) monitoring of nitrates in vegetables;

(c) microbiological analysis of cooked foods;

(d) microbiological analysis of processed meat products;

(e) microbiological analysis of miscellaneous food products, at the request of private entities;

(f) analyses in cooperation with other agencies.

Article 12

702. In examining the problems of health in Portugal, we shall refer to the text of the Constitution, the Global strategy for health for all by the year 2000 of WHO, which is a reference for health policy, the report of the National Commission on Child Health, which, if it is approved by the Government, will form a financially supported plan of action for the problems of children, and, finally, the activities carried out by the Ministry of Health. We shall then examine the legislative regime for health, from the framework law which we shall designate as the Law on the Bases of Health, the Law on the National Health Service, measures of assistance in health, from the regulation of private health care or social welfare to public assistance for the purchase of medicaments and miscellaneous legislative provisions in various domains.

Constitutional provisions on health

703. The Constitution, in Chapter II of Section III, thereby including it among the fundamental rights not vested with direct applicability, provides for the right to health in Article 64. Everyone shall have the right to protection of his or her health and the duty to defend and foster it. This protection of health is given effect by the action of the legislator. The legislative power has the duty to take steps to guarantee the right to health but Article 64 may not be invoked in justice by individual citizens (see introduction).

704. Pursuant to paragraph 2 of Article 64 the right to health protection shall be assured by:

(a) a universal and general national health service that thus covers the entire population and all forms of health care and that, taking into account the economic and social conditions of the citizens, shall tend to be free of charge;

(b) the creation of economic, social and cultural conditions securing the protection of children, the young and the old, and the systematic improvement of living and working conditions, the promotion of physical fitness and sports in school and among the people, and the development of the people's health education. It is thus the duty of the State to create an environment conducive to the development of good health conditions for all.

705. Article 15 of the Constitution places aliens on an equal footing with nationals. This is reflected in all aspects of the regime applicable to aliens.

Health policy

706. Health policy in Portugal is based on the major objectives defined by WHO in 1986, in the book "Targets for Health for All - Targets in Support of the European Regional Strategy for Health for All". These objectives correspond in general to the objectives set out in the Constitution. They are to be found in the programme of the National Commission on Child Health and the activities carried out by the Ministry of Health. They are also among the objectives set out in the Law on the Bases of Health and the Law on the National Health Service, in this case not in terms of programmes but as concrete rights and duties of citizens in relation to the health system.

707. The aim embodied in this book is to "facilitate the attainment by all the people of the world by the year 2000 of a level of health that will enable them to lead a socially and economically productive life".

708. The major guiding principles of health policy in the light of this aim are equality of access to health care, health promotion and disease prevention, the penetration of health into society and the involvement of society in health, multisectoral cooperation in health, primary health care and international cooperation.

709. Within this framework, the book defines 38 targets to be attained by the year 2000. Very succinctly, these targets include equality of access to care for all, enhancement of the health potential and improvement of the living conditions of the handicapped, reduction of mortality and disability and elimination of certain diseases, such as poliomyelitis; reduction of factors of mortality not directly related to health, ranging from increased life expectancy at birth to reduction of traffic accidents and including measures to prevent suicide; promotion of healthy lifestyles, improvement of the environment and provision of adequate health care; promotion of research in the field of health, the formulation of health policy and the development of human resources for health.

Report of the National Commission on Child Health (January 1993)

710. Reference to health must not overlook the health of children. According to the report prepared by the Government on the application in Portugal of the Convention on the Rights of the Child, the population is in the process of ageing, 30% of the population is under the age of 19 and medical care and services are not yet sufficiently developed in Portugal. According to this report, although compulsory immunization is now general (carried out at the health centres), treatment requiring hospitalization is not widely available and children are treated with adults. There are in fact only three paediatric hospitals in Portugal. This example is sufficient to illustrate the scale of the effort still needed.

711. The National Commission on Child Health was set up in 1992 by the Secretary of State for Health. It has drawn up a report (completed in January 1993) on the situation of children in Portugal. It is to this report that we shall henceforth refer, for if it is approved, it will form the basis for plans of action for the health of children in Portugal. Hence its importance.

712. The degree of interest shown by a society in respect of its most vulnerable groups, especially children and adolescents, to a large extent reflects its level of development and the depth of its democratic experience. In Portugal, up to the eve of the Revolution in 1974, paediatric medicine was concerned with children up to the age of seven. The age was raised to twelve but most children and adolescents are still being treated with adults. The 1990 Convention on the Rights of the Child takes "child" to mean "every human being below the age of eighteen years". Since paediatrics is the medical care of children, it should therefore include the care of children and young people from birth to the end of adolescence.

713. The last few years have brought significant progress in Portugal in the health care of adolescents and children:

- Improvement of health indicators for the child and adolescent population;

- Consolidation of the primary health care network, greater scientific rigour in health control activities, with concern for effectiveness, efficiency and impact;

- Changes in the ranking of the most common diseases, with a marked decline in infectious, foodborne and perinatal diseases and greater importance of disorders of development and behaviour, chronic diseases, accidents and dental caries, inter alia;

- Increased knowledge and motivation among families, in line with the reduction of illiteracy and the improvement of living conditions, and the development of parenting skills;

- Recognition of the importance of team work in the health services and child support structures;

- Recognition of the importance and need for continuing training and applied research.

The need has also been noted for adequate continuity in the provision of care, specifically through better and closer integration of the different levels of care, and for the exchange of information and improved communication.

714. The report provides for health care for children and adolescents, the training of human resources, the problems of children with special needs (handicapped, chronically ill, victims of violence), areas requiring special attention and paediatric research, and formulates conclusions and recommendations.

715. Like the Law on the Bases of Health and the international instruments, the report stresses that primary health care should be the central activity of medical care in the framework of a national health service.

716. The conclusions formulated in the report touch upon community paediatrics: the aim is to create a body of paediatricians to function in the community and specifically devoted to this community action. These paediatricians would complement general clinicians or public health physicians and their activities would be integrated into the tasks of health teams. Local and regional health structures will need to be adapted so as to incorporate these community paediatricians.

717. The conclusions concern the following sectors:

(a) hospital care: reference is made to the Charter of the Rights of Children in Hospital drawn up by the European Community in 1990. The aims of a paediatric service are to prevent hospitalization, especially extended stays in hospital, to encourage accompaniment of children in hospital by their parents, to create an atmosphere responsive to the needs of children and adolescents, to develop non-invasive methods of diagnosis and treatment, and to organize reception areas designed for children and adolescents, for both emergency and non-emergency cases;

(b) paediatric intensive care: this should be introduced in all hospitals, for which suitable and well trained human resources will be needed;

(c) casualty services: neither patients nor professionals are satisfied with the present services;

(d) integration of hospital and non-hospital care: the Law on the Bases of Health recognizes this need. More and continuing information is needed on the health of every young patient, updated by every health unit attended by the child. The creation of units to coordinate child health regionally between the health centres, hospitals and other services located in the geographical area of future integrated health care facilities is recommended;

(e) postgraduate training in paediatrics: so that paediatricians may specialize;

(f) paediatric surgery: the concentration of human and technical resources is recommended in order to optimize surgical care for children, in view of the reduction in costs to which this would lead, and improvement in the quality of the services provided;

(g) children's and paediatric nurses in Portugal: the quality of the care given by nurses needs to be improved, and they should be given specific paediatric training and encouraged to relate to parents;

(h) handicapped children: it is recommended specifically that child development centres should be set up in the hospitals, to identify problems and establish programmes of support to young people;

(i) children with chronic illnesses: the interventions of paediatricians should be coordinated and treatment centres brought nearer to the children's homes;

(j) children victims of violence: reception centres for these children need to be improved, and adoption should, if possible, be encouraged when reintegration into the family is no longer appropriate;

(k) genetics: this area should be expanded in order to improve the care of mothers and children;

(l) oral health: it is necessary to improve oral hygiene and combat dental caries;

(m) accidents: their number is alarming in Portugal, costing 220,000 years of potential life each year. This figure includes road accidents only. Young people are particularly prone to accidents from birth up to the age of nineteen. A reduction in the number of road accidents, accidents in the home and other accidents, can only be achieved through the promotion of safety in the environment in which children and adolescents grow up. This requires an interdisciplinary approach. Measures are proposed in respect of each type of accident. The implementation of these measures calls for a specific and priority national programme;

(n) adolescents: for whom a specialized approach is needed;

(o) research in paediatrics.

Activities carried out by the Ministry of Health

718. In the period 1989/1991, the two priority national programmes were those concerned with cardiovascular diseases and hypertension and perinatal morbidity, comprising the following measures:

- Elaboration of standards to evaluate the extent of control of arterial hypertension at the regional/local level (Department of Environmental Services, Division of Planning and Evaluation);

- Elaboration of technical directives on the control of dyslipidaemia (Department of Environmental Services);

- Elaboration of directives on occupational risks related to cardiovascular diseases and hypertension (Department of Environmental Services);

- Revision of service instructions on how to fill in health records for pregnant women and how to fill in family planning records (Maternal and Child Health, Family Planning);

- Updating of standards and service instructions on tetanus immunization of pregnant women, immunization of girls aged 11 to 13 against rubella and combined measles, mumps and rubella immunization of children between 12 and 14 months (Directorate of Communicable Diseases and Parasitoses Services);

- Updating of standards on congenital syphilis (Directorate of Communicable Diseases and Parasitoses Services, Maternal and Child Health and Family Planning);

- Elaboration of a standard on occupational risks connected with pregnancy, in collaboration with the Division of Maternal Health.

The regional health administrations have opted additionally for other programmes in the light of their assessment of the situation in each department.

719. There are other programmes whose routine execution is the responsibility of the health centres: child health; family planning; environmental health; hospitalization; oral health, etc.

720. The normative activities relating to priority programmes are:

- Transformation of the norms relating to the perinatal period into technical directives;

- Revision of the service standard "Concepts used in the field of maternal health";

- Pregnant women at work (occupational risks connected with pregnancy, standards for management);

- Publication of the standards for the treatment and prophylaxis of tuberculosis in pregnant women and children;

- Updating of the standards for evaluation of the arterial hypertension programme at the local level.

721. The normative activities relating to other programmes are:

(a) Environment:

- Updating of the standards relating to the programme on "monitoring of water quality in bathing areas";

- Elaboration of standards for the programme on "noise control for health";

- Elaboration of standards for the mapping of risk factors for health;

- Promotion of the elaboration of regulatory standards for spa establishments, particularly with regard to the exercise of their functions by health personnel;

(b) Mental health:

- Proposal for the reformulation of the Law on Mental Health;

- Definition of a national information system in the area of mental health;

(c) Other health programmes:

- Revision and updating of all existing standards on child health and transformation into "technical directives";

- Elaboration of technical directives for the proper observation of teeth;

- Updating of service instructions on the "detection and control of diabetes";

- Elaboration of a "programme of action on certain cancers at the health centre level";

- Discussion of the intervention project on "rheumatic diseases" at the primary health care level;

- Collaboration in the elaboration of minimum standards of physical and mental fitness to drive motor vehicles;

- Elaboration of standards for the diagnosis of pulmonary and other forms of tuberculosis;

- Publication of standards for the treatment and prophylaxis of tuberculosis in the general population.

Legal regime

722. In the area of health, the legislative framework within which health policy is conceived must first of all be stressed. The fundamental text is Law No. 48/90, of 24 August, the Law on the Bases of Health. The Law is divided into four chapters which define the bases of health: general provisions (chapter I, bases I to XI), entities providing care (chapter II, bases XII to XXIII), the National Health Service (chapter III, bases XXIV to XXXVI), and special initiatives in health (chapter VI, bases XXXVII to XLII).

723. The protection of health is a right of citizens and the community to which effect is given through the joint responsibility of citizens, society and the State, in terms of freedom of research and provision of care, as stipulated in the Constitution and the law. The State guarantees the access of all citizens to health care within the limits of the human, technical and financial resources available.

724. Health policy obeys the following principles: it is a priority in the activity of the State; citizens are equal in access to care, irrespective of their economic means or place of residence. The distribution of resources for the utilization of services should be equitable. Special care is provided for groups subject to risk, such as children, adolescents, pregnant women, the elderly, the handicapped, drug addicts and workers exposed to risks. The health services are linked with the social security and welfare services, functioning in accordance with the interest of the users. Private initiative is encouraged, particularly in the form of private social welfare establishments. Individuals play a part in the definition of health policy. Communities should be made aware of health issues so that they can contribute to health promotion. Finally, the State guarantees support to scientific research and the training of health personnel.

725. The entities providing health care are the National Health Service, the public entities active in the health sector, the private entities operating in this sector and self-employed professionals.

726. From among these entities, the beneficiaries of medical care have the right to choose (within the framework of the health system) services and providers, to accept or refuse the provision of care they are offered, and to be treated with adequate facilities, humanity and care, technical correctness, privacy and respect. The recipients of care also have the right to confidentiality of the personal data they reveal, information concerning their situation, the possible alternatives for treatment and the probable evolution of their condition. They likewise have the right to religious assistance if desired, to complain of the manner in which they have been treated and, if necessary, to receive compensation for damages incurred. The recipients of care may also form entities that collaborate with the health system, in the form of associations for the promotion and defence of health or groups of friends of health establishments.

727. They also have duties. Beneficiaries must respect the rules on the organization and functioning of services and establishments, collaborate with health professionals in regard to their own situation, utilize the services in accordance with the established rules and pay the costs arising for the provision of care where so stipulated.

728. In this chapter, the law also provides for the exercise of their profession by health professionals, the training of personnel, and research and development. It also provides for the territorial organization of the health system, the decentralization of the health authorities, emergency or disaster situations, and the exercise of the activity of pharmacy.

729. The National Health Service (foreseen in chapter III of the law) is characterized by universality in regard to the population, availability and guaranteed provision of the full range of care, which shall normally be free of charge for beneficiaries, guaranteed equity of access for patients, and regionalized organization with decentralized and participative management.

730. Lastly, private health initiatives are supported by the State. Private welfare establishments are subject to the guidelines and inspection of the services of the Ministry of Health. Private profit-making institutions are subject to licensing, regulation and quality control by the State. In the framework of the regime established by the Law on the Bases of Health, mention should be made of the strengthening of the role of the private welfare institutions created by Decree-law No. 12/93, of 15 January; and the legal regime governing private health facilities, Decree-law No. 13/93, of 15 January. Self-employed professionals are controlled by their respective professional orders and by the services of the Ministry of Health.

731. Agreements may be concluded between the public services and private institutions in order to ensure a better result.

The National Health Service

732. Decree-law No. 11/93, of 15 January, restructures the National Health Service, giving it a new statute. The text considers that units in which primary health care is articulated with differentiated care should be established. On the basis of this observation, the text advocates the creation of new integrated health units.

733. The statute of the National Health Service is published in annex to the law adapting the existing structures to the new statute. The statute provides for the formation of integrated health units, disseminated among health regions, with the law establishing national, regional and municipal consultative organs on health to meet the legal requirement for the participation of the populations concerned in the definition of health policy. Provision is also made in the statute for human resources and their mobility.

Assistance in health

734. We shall refer very briefly here to the assistance given by the State for the purchase of medicaments, since access to medicaments is an essential component of the right to health. The regime for assistance in the purchase of medicaments is established by Decree-law No. 118/92, of 25 June. The text

defines three groups, representing different levels of assistance. For group A, the cost of medicaments is entirely borne by the State; for group B, the State pays 70% of the selling price to the public, and for group C the share paid by the State is 40%. The participation of the State in the cost of medicaments in groups B and C is increased by 15% for pensioners who receive pensions of less than the national minimum wage. The prices in the various systems are established in Decree-law No. 57/86, of 20 March and in Order No. 378-A/92, of 2 May.

Miscellaneous legislative provisions

735. In the area of health, the following should also be noted: Law No. 3/84, of 24 March, on sex education and family planning, already mentioned; Law No. 6/84, of 11 May, which provides for exemption from wrongfulness of voluntary interruption of gestation (abortion), already mentioned; Decree-law No. 391/91, of 10 October, which provides for placement of elderly persons and handicapped adults in families before - or in order to avoid - placement in a welfare institution; Decree-law No. 441/91, of 14 November, which establishes the legal regime to govern safety, hygiene and health at work; Decree-law No. 127/92, of 3 July, on mental health; regulation of the transport of patients, imposing proper conditions for the exercise of this activity (Decree-law No. 38/92, of 28 March, regulated by Order No. 439/93, of 27 April). This activity may only be carried out subject to authorization and only by legal entities. The prices of transport will be established by the Ministry of Health; Decree-law No. 177/92, of 13 August, establishes the regime for medical assistance abroad for beneficiaries of the health system: this is for highly specialized medical care which, for lack of technical facilities and human resources, cannot be given in the country; ILO Convention No. 102 concerning Minimum Standards of Social Security, already mentioned; the approval by Parliament and ratification by the President of the Republic (published in the Official Journal of 30 December 1992) of the protocol of alterations to the European Social Charter; Decree-law No.15/93, of 22 January, containing legislation to control drugs which fixes tables defining the products to be considered as drugs, permission for the use of these products by certain entities, to be granted by the National Institute of Pharmacy and Medicaments, and defines the crimes of trafficking and laundering of profits from such traffic, and other infringements of the law; Decree-law No. 261/93, of 24 July, regulating the exercise of paramedical activities with a view to obtaining better quality in the services rendered. This law is not applicable to professionals compulsorily enrolled in public associations, or dentists, nurses and midwives; Decree-law No. 335/93, of 29 September, instituting regulation of the regional health administrations; Decree-law No. 336/93, of 29 September, instituting the legal regime for the appointment and competencies of the health authorities.

Article 13

Legal and programmatic framework

736. The right of all Portuguese to education, culture and instruction and to equality of opportunity in access to schooling and academic success is established in article 74 of the Constitution. The Constitution states the principle of neutrality of the State in matters of education and culture,

stipulating that it may not arrogate to itself the right to programme education and culture according to any philosophical, ideological or religious precepts. The non-denominational nature of public education stems from this principle.

737. The Constitution also establishes the freedom of choice of type of schooling by guaranteeing the right to found private and cooperative schools. It is largely by means of private and cooperative education that the constitutional principle of the freedom to learn and teach is translated into practice.

738. Article 73, paragraph 2, of the Constitution goes on to say that "the State shall promote the democratization of education and other conditions so that education at school and by other methods can contribute to the development of the personality, to social progress and to democratic participation in public life."

739. Article 74, paragraph 2, further stipulates that "education shall contribute to the correction of economic, social and cultural imbalances in order to enable citizens to participate on a democratic basis in a free society and to promote mutual understanding, tolerance and a spirit of solidarity."

740. The rights and principles established in the Constitution provided the framework for Act No. 46/86 of 14 October - the basic law of Portugal's education system - which, although not yet fully matched with regulations, constitutes the foundation of all education policy. The regulations are gradually being brought into force on the basis of the comprehensive reform proposal presented in 1988 by the Commission on Reform of the Education System.

741. Article 3 of the framework principles of the basic law states that the education system shall be organized so as to:

(a) Contribute to the protection of the national identity and the consolidation of adherence to Portugal's historical mould by promoting awareness of its cultural heritage in the framework of the universalist European tradition and the increasing interdependence and essential solidarity among all the peoples of the world;

(b) Contribute to the flowering of the students through the full development of their personality and formation of their character and sense of citizenship by training them to be guided constantly by spiritual, aesthetic, moral and civic values and offering them a balanced upbringing;

(c) Ensure the civic and moral training of young people;

(d) Guarantee the right to be different by promoting respect for individual personalities and ways of living, as well as understanding and development of different kinds of knowledge and culture;

(e) Develop the capacity to work and offer, on the basis of a solid general education, specific training designed to guarantee all people an appropriate place in working life so that they can make their contribution to the advancement of society in accordance with their interests, capacities and vocations;

(f) Contribute to the personal and communal development of the individual, not only by means of training for participation in socially useful employment but also through instruction and practice in the creative use of leisure time;

(g) Decentralize and diversify educational systems and activities in order to allow correct adaptation to the realities, a heightened sense of participation, proper integration in the community, and effective decision-making;

(h) Help to correct the imbalances in regional and local development by promoting in all the regions of the country equality of access to the benefits of education, culture and science;

(i) Provide a second chance of schooling for people turning to the education system for reasons of occupation or cultural development resulting in particular from job-conversion or retraining needs caused by scientific and technological progress;

(j) Ensure equality of opportunity for both sexes, especially by means of coeducation and academic and careers guidance, and for this purpose to increase the awareness of all the participants in the education process;

(k) Help to develop the democratic spirit and democratic practices by introducing arrangements and procedures for participation in the determination of education policy and the administration and management of the school system and in the daily learning experience; such participation shall be open to everyone involved in the education process, in particular pupils, teachers and families.

742. The basic law established a new general organizational framework for the education system but, until this new system is fully in place, the old system is being maintained in conjunction with the gradual introduction of the reforms.

743. According to this basic law, the education system includes preschool education, school education and extramural education.

744. Preschool education takes the form of training to supplement the educational activities carried out in the family, and its objectives are pursued in close cooperation with the family. It is designed for children from the age of three until they enter the basic education system.

745. School education covers basic, secondary and higher education and includes special leisure arrangements and activities.

746. Basic education is universal, compulsory and free and consists of nine years of schooling. Basic education is provided for children aged six on 15 September of the year in question and compulsory schooling ceases at age 15. Basic education includes three successive cycles: the first of four years, the second of two years and the third of three years.

747. The secondary education courses last three years and are organized in different ways: they are designed essentially either as preparation for working life or for the continuation of studies.

748. Higher education includes university and polytechnic education. University education leads to the academic qualifications of licenciatura (BAC + 4, 5, 6 years), mestrado (2 years + thesis) and doutoramento (licenciatura or mestrado + research and thesis). This is the longer version of higher education. Polytechnic education is the shorter version (usually BAC + 3); it leads to the qualification of bacharelato (BAC + 3) and to the equivalent specialized diploma - for all legal purposes a licenciatura.

749. The following are the special modalities of school education: special education, vocational training, adult further education and Portuguese education abroad (see table I, annex 6, */ on the structure of Portugal's education system in accordance with the basic law (Act No. 46/86 of 14 October)).

750. Extramural education includes literacy training and basic education, further training and cultural and scientific refresher courses, as well as initial job training, retraining and further training; it takes place in many different formal and informal situations.

751. Mention must be made of the health education of children. The programme of the present Government has given priority to the renovation of the education system; a far-reaching reform has been initiated for the period up to the end of the century, in accordance with the principles stated in the basic law of the education system on which the future regulations will be based.

752. The Government acknowledges that the modernization of education is a priority measure which hinges on three principles: freedom, national identity, and solidarity. Accordingly, it is held that the training of responsible citizens aware of the primacy of fundamental rights in civic, cultural and economic affairs is an essential condition of the country's advancement. Furthermore, the strengthening of the national identity with a view to the preservation and renewal of the national heritage is the condition sine qua non for Portugal's reincorporation in the modern world and in Europe. The interdependence and the regional disparities of our era mean that priority must be given to the civic and ethical dimension of education.

753. In this context, the following priorities have been set in the Government's programme:

- More rapid progress towards universal access to basic schooling of nine years, together with an increase in the number of pupils at the secondary and higher levels and a corresponding expansion of the opportunities for adult education and further training, and the expansion of preschool and special education;

- Improvement of the quality of education by emphasizing curriculum reform as a priority at all levels of education;

- Assignment of priority to the campaign against failure, especially in the first cycles of basic schooling;

- The social and professional development of teachers;

- The development of education in the arts;

- A more rapid increase in the availability of vocational and prevocational training;

- The development of programmes of vocational and professional information and guidance;

- Increased access to higher education;

- The importance of university independence;

- Encouragement of scientific and experimental research activities;

- Establishment of the conditions for the effective exercise of the freedom to learn and teach;

- Development and protection of the Portuguese language and culture;

- Reform of the administration of education, with the accent on enhanced independence for schools;

- Development of permanent information and communication arrangements for the users of the system;

- Design and introduction of a medium-term programme of educational construction and equipment at all levels, and the adoption of urgent measures for maintenance and repair of the network of teaching institutions in close cooperation with the local authorities;

- Strengthening of social assistance for schooling, giving priority to the most disadvantaged children in basic education and to improvement of safety in teaching institutions and the prevention of drug-addiction;

- Encouragement of leisure activities.

754. Within the framework of the modernization of education, which the Government regards as a priority measure, a document was drafted which will be of major importance for education policy over the next few years: the Education Programme for Portugal (PRODEP). Conceived from the standpoint of Portugal's full integration in the European Community, this programme envisages the continuing, systematic and radical investment of large sums in education in order to achieve the stated objective of drawing closer to the standards of other European countries. The analysis of the situation undertaken by PRODEP reveals that Portugal is a country of very sharp regional imbalances which are even more evident when compared with other States of the Community.

755. Having assessed the situation, PRODEP has proposed essential objectives which take up the challenges of European integration at the end of the second millennium:

(a) Universal access to education, to bring Portugal closer to the EEC rates by correcting its regional disparities and the dysfunctional imbalances between technical and vocational education and academic education;

(b) Modernization of the education infrastructure to adapt education to the needs of the country's human, democratic and technological development;

(c) Improvement of educational activities with a view to education for success, skills and development.

756. It must be stressed that this was one of the most ambitious development programmes envisaged for the period 1989-1993 and that it enjoyed strong support from the Community Structural Funds. The great diversity of its activities, the variety of its projects, its far-reaching social and economic impact and its broad geographical and regional cover were all factors which argued for its organizational and management structure to be planned according to modern project guidelines, while maintaining its links with the system of the Ministry of Education by means of effective and flexible arrangements. For management purposes, PRODEP is subdivided as follows:

A - Preschool education;

A1 - Promotional work with children;

A2 - Mobile units;

A3 - Encouragement of the establishment of kindergartens;

B - Development of the new stock of schools;

B1 - Construction of schools for the first cycle of basic education;

B2 - Construction of schools for the second and third cycles of basic education and for secondary education;

B3 - Construction of school hostels;

C - Maintenance and repair of school buildings and equipment;

D - Construction of school sports facilities;

E - Expansion of access to information technology (MINERVA project);

F - Increased use of school ombudsmen;

G - Classrooms for special education;

H - Classroom equipment for vocational education;

I - Development of higher education in strategic areas;

J - Adult education;

K - Promotion of success-oriented education;

L - Vocational education and guidance;

M - Continuing education of teachers in basic and secondary education;

N - Management and training for PRODEP.

All these subprogrammes have an internal component consisting of measures to be carried out by the public sector and a second open component which includes arrangements for incentives and open competition for the private sector (see table II, annex 6). */

757. In accordance with its basic law, the Ministry of Education has consultative bodies whose views are of importance for the preparation of legal provisions.

758. The National Education Council was created in 1982, and its terms of reference and membership were established in 1987. This is a higher consultative body whose task is to study and propose measures for the permanent adaptation of the education system to the needs of Portuguese citizens by promoting the harmonization of education policy with other sectoral policies. It is required to allow the participation of the various social, cultural and economic forces in the search for a broad consensus on education policy. It is one of the Council's functions, at the request of the Minister or on its own initiative, to submit opinions and draft recommendations on all matters concerning the development of the education system.

759. The National Sports Council, another of the Ministry's consultative bodies, is responsible for studying and proposing measures for the development of sports.

760. The Council of University Rectors is a regulatory body, but the matters which it considers must fall within its terms of reference or the competence of the rectors themselves. It is responsible for coordinating university activities.

761. The Coordinating Council of Higher Polytechnic Institutions also has a consultative and support status; its function is to propose policy guidelines for the establishment and operation of the new higher polytechnic institutions, to coordinate their activities, to offer opinions on matters of higher polytechnic education, and to evaluate all the development plans and programmes submitted by the chairmen of the foundation commissions.

762. The Coordinating Council for Private and Cooperative Education, another consultative body, is responsible inter alia for devising and proposing to the Minister measures for the participation of private and cooperative education in the education system, as well as for evaluating and making proposals for the application to private and cooperative education of the measures adopted for the improvement of public education; it is also required to offer opinions on the criteria for independence and curriculum alignment and on proposals concerning the amount and award of subsidies to private and cooperative education institutions.

Action taken

763. Some action has already been taken in recent years within the framework of the education policy described above. Although not all of the provisions of the basic law have yet been fully matched with regulations, the law does state that pupils enroling for the first year of basic education in 1987-1988 would have to complete nine years of compulsory schooling. The restructuring of the administrative apparatus of the Ministry of Education in 1993 (by Decree-Law No. 133/93 of 26 April, which revoked Decree-Law No. 3/87 of 3 January) was designed to achieve substantial decentralization of the coordination and support services for non-higher educational institutions and of the management of human, financial and material resources, with the exception of the control function, giving due consideration to the various sectors of the education system. These decentralized services are the regional education boards.

764. Article 26 of the previous basic law of the Ministry of Education (Decree-Law No. 3/87 of 3 January) established the regional education boards. They had powers and functions in the areas of teaching theory, teaching and non-teaching staff, educational equipment and resources, and socio-educational support, all of this being included in the subsystem of non-higher education.

765. Although the basic law of the Ministry has not yet been fully matched with regulations, certain powers previously reserved for the central services and their offices were assigned to these regional boards, including:

- Management of education facilities;
- Management of teaching and non-teaching staff of higher education institutions;
- Social activities in the schools;
- Educational support and extension work;
- Other powers relating to the teaching component.

The assignment of these powers was part of the implementation of an integrated decentralization process designed to achieve more effective operational coordination of the administrative apparatus of the education system at the non-central level. This freed the central authorities to concentrate more on their regulatory and control functions.

766. The enactment of Decree-Law No. 133/93, the basic law of the regional education boards, was followed by the enactment of Decree-Law No. 141/93 of 26 April. This text states that the boards have the power to coordinate, monitor and support the organization and operation of education institutions, to manage the human and educational resources of non-higher education institutions, and to determine the needs of the education system. There are at present five boards: Northern, Central, Lisbon, Alentejo and Algarve.

767. An interministerial programme for the promotion of success-oriented education (PIPSE) was established, having been approved by a resolution of the Council of Ministers in January 1988. The purpose of this programme was to improve the quality of education and its effectiveness by promoting the overall

success of children and young people in basic education, with priority given to the first cycle. The first phase of the programme was introduced during the 1987-1988 school year, and its evaluation showed that the results had exceeded the most optimistic forecasts. In this first phase the programme covered 60 municipalities in continental Portugal; the second phase will cover a further 138 municipalities, and the third and last phase will cover the remaining ones.

768. A further legislative measure under this programme was published in October 1988; it established a range of social and economic benefits to encourage and develop the support of physical and juridical persons in public and private law for the expansion, maintenance and improvement of the stock of schools and for the upgrading of educational resources by means of grants or gifts of goods or free provision of services to education institutions.

769. Attention is also drawn in this context to the Order of May 1988, which established that the four years of the first cycle of basic education should continue to operate in two phases and that the promotion and assessment of pupils should be carried out according to that system, which replaced the school-year system.

770. With a view to institutionalizing by means of suitable legislation a number of arrangements essential to the promotion of success in coming years, a legislative text was published in January 1990 dealing with the regulation of educational supports and supplementary activities in the fields of educational guidance and psychology, social action in schools, and health in the education system. Without prejudice to these regulations, a set of measures published in June 1990 had already indicated what needed to be done for the beginning of the 1990-1991 school year.

771. In addition, article 15 of Decree-Law No. 271/89 of 19 August defined the terms for the provision of education grants to enable the poorest students to attend private or cooperative higher education institutions. These grants are a means of achieving the desired equality of opportunity. Under this measure, deserving but poor students will be able to attend private education institutions to which they would not otherwise have access.

772. Lastly, attention must be drawn to the creation of merit and excellence awards in schools at the regional and national levels for pupils in the second and third cycles of basic education and in public, private or cooperative secondary schools (Regulatory Order No. 102/90 of 3 August, published on 12 September 1990). This promotional measure is designed to encourage pupils not only to do their individual or collective school work but also to ensure that their cultural, personal and social skills and attitudes are recognized, developed and rewarded.

773. The "Education for All" programme was also introduced. This programme is designed to ensure that the nine years of compulsory schooling are completed in accordance with the proper schedule, that access to full secondary education becomes available during the 1990s to all young people who desire it, and that education and teaching standards are improved.

774. The policy concerning school text books is also a subject of concern to the officials responsible for the education sector. In 1987 Act No. 57/87 of 31 January drew attention, in its preamble, to the need to legislate on this

matter not only to establish measures to safeguard the quality of school text books but also, and essentially, to ensure through fairer regulations that their prices are more reasonable and within the pocket of the ordinary citizen. In order to achieve these objectives, the Act established the period during which the programmes would remain in force and the regulations governing the approval of school text books by the teaching institutions.

775. With regard to the availability of vocational and prevocational training, a joint commission was appointed in 1987 by the Ministries of Education and Employment and Social Security to produce feasibility studies on vocational schools. Vocational schools were established within the framework of non-higher education on 21 January 1989 by Decree-Law No. 26/89.

776. These schools were to be independent but coordinated with the formal education system. They could be established as an alternative to the third cycle of basic education or secondary education. Their main concern was with technical and vocational training and they had to be funded and managed by private or public local or regional bodies in accordance with a system of programme contracts with the two Ministries in order to qualify for official grants.

777. Thus, as part of the arrangements for vocational and prevocational training, courses were created in various subjects such as hotel accounting, information technology, mechanical engineering, civil engineering, etc. Furthermore, pursuant to the joint Order of the two Ministries dated February 1989, in order to take better advantage of the existing resources arrangements had to be made for coordination of the various vocational training units so that plans for cooperation and integrated local or regional development projects could be established.

778. Along the same lines, the consultative councils of higher polytechnic institutions must include in their membership at least one representative of the vocational training centres of the Institute of Employment and Vocational Training which pursue similar objectives in the region where they are located. A national joint coordination commission has also been established.

779. Legislative measures have already been adopted with a view to improving the stock of schools. A commission was appointed in 1987 to evaluate the special programme for construction of preparatory and secondary schools, which was introduced in 1980. It concluded from its examination of the situation that for various reasons there was still a wide gap between the actual needs and the existing stock of schools. This clearly had an impact on the quality of education. Short-term measures, judged necessary for the beginning of the 1988-1989 school year, were introduced in the programme mentioned above; a commission to monitor the implementation of these measures was proposed.

780. Medium- and long-term measures were introduced to meet the need to establish, on a gradual basis, multi-year construction programmes to improve and expand education facilities. Mention must also be made of the important measure for incorporation of private and cooperative schools in the list of schools with a view to the reorganization of the network from 1988-1989.

781. With regard to the stock of schools, legislative action was taken to encourage, as a teaching experiment for the 1990-1991 school year, the operation

of a nine-year basic school in the concelho capitals. This experiment was prompted by the need to find suitable methods of providing compulsory schooling for nine years, as well as methods of carrying out the education reform in general and the curricula reform in particular. A nine-year basic school offers pupils basic education in the same building and, as far as possible, with the same teaching staff and the same school culture. This type of school will thus be regarded as a promotional and teaching-resources centre serving the school community of a given area.

782. With regard to school independence, attention must be drawn to the expansion of the experimental project on a new system of budget management which was first introduced in 1980 in 100 schools and has now been extended to cover all preparatory and secondary schools, making full use of the advantages of increased effectiveness and efficiency in the management of the resources. Under this project, in the 1988 financial year resources were allocated to these schools in the form of lump sums, so that the schools would have greater managerial independence while still complying with the principles of effectiveness, efficiency and economy in the use of the funds.

783. Following this experiment, Decree-Law No. 43/89 of 3 February established the legal arrangements for the independent operation of public schools in the second and third cycles of basic education and of secondary schools (preparatory education). This text conceives independence as the capacity to design and implement an education project which will be of benefit to the pupils and which will be carried out from the cultural, educational and administrative standpoints in accordance with the limits set by law. This project was to involve everyone participating in the education process.

784. University independence was defined by Act No. 108/88 of 24 September. Universities are juridical persons in public law enjoying statutory, scientific, teaching, administrative, financial and disciplinary independence. As to their management organs, the rector has his own independent status, and three collegiate bodies have been created: the assembly, the senate, and the board of management.

785. The rector is elected by the university assembly, which supervises academic administration and directs the university. All its members are elected. Parity of representation of students and teachers is mandatory. The membership of the senate and the board of management is determined by the statutes of each university. The function of the senate is to approve the university's main policy orientations. The board of management manages the university's finances and assets.

786. Following the establishment of university independence in Act No. 108/88, the statutes and the independence of higher polytechnic institutions were promulgated in Act No. 54/90 of 5 September. Under this Act, polytechnic institutes are regarded as institutes of higher education consisting of two or more higher schools with a general orientation towards attainment of the objectives of higher polytechnic education in a single region; these schools are associated with each other for the purposes of harmonization of education policy and optimum use of resources.

787. Polytechnic institutes are juridical persons in public law enjoying independence with respect to their administration, finances and assets. Higher

schools are higher-level cultural and technical training centres which are required to provide training for occupations demanding a high level of qualification. Their functions include the development of the regions where they are located. The following are their specific objectives: initial training; retraining and refresher courses; horizontal and vertical technical conversion; support for regional development; and research and development.

788. A new higher education institution was created by Decree-Law No. 444/88 of 2 December pursuant to the rule contained in article 21, paragraph 3, of the basic education law. This is the Open University, whose specific function is to provide extramural education by appropriate means, i.e. using a range of modalities, methods and techniques in order to offer higher education to adults on a self-taught basis; the methods include the use of written and media teaching materials and regular correspondence between the students and the body responsible for the course in question.

789. In 1992 Decree-Law No. 182/92 of 3 September established a new system of access to higher education applying to all public and private higher education institutions operating under the auspices of the Ministry of Education. The following are the main general characteristics of this new system: candidates must hold a secondary education graduation certificate (12 years schooling), take a written placement test, which is not designed to eliminate any candidates but rather to evaluate the knowledge they have acquired during their secondary education, and take a specific test to assess their capacity for higher education; each higher education institution determines the specific secondary qualifications required by candidates for each of its courses. Under a national applications system, candidates can indicate their preferred courses and institutions; lastly, in the placement of candidates account is taken of their stated order of preference and their position in the list drawn up by each higher education institution.

790. Beginning with the 1988-1989 school year, a new job description was introduced for preparatory and secondary teachers employed on a probationary basis. This job description forms part of general education policy and is consistent with the principles contained in the basic education law and the requirements of regionalization, enhancement of school independence, upgrading of the status of teaching as a career, and the education reform. It is the expression of a policy which seeks the coherent and continuous coordination of the training of teachers at the non-higher level. The professional profile of teachers was determined in accordance with the criteria of technical competence in their speciality, educational and teaching skills, and personal and social training for the teaching profession.

791. In 1990 Decree-Law No. 139-A/90 of 28 April established the statute of the careers of child education worker and teacher in basic and secondary education with a view to the modernization of human resources management in teaching. At the same time, an effort was made to revise and replace the legislation in force, which was fragmented among several texts without any real coherent and uniform approach. This statute, as the regulatory framework for the development of a code of professional conduct, is based both on the professional qualifications of teaching staff acquired during their initial or in-service training and on the requirement of professionalism in the performance of their duties; it defines the specific rights and duties of teachers which stem from

the nature of the profession: the teaching of children and young people in the public education system.

792. The guidelines for recruitment and selection of teaching staff were defined, and a new approach was introduced with regard to the legal link with the Ministry with a view to securing an improvement in the quality of teaching; the special status of a teaching career was also established, together with the need for performance evaluation; the statute also encourages diligence and recognizes the right to payment for performing other duties in schools, such as administration and management, etc.

793. In August 1990 Act No. 50/90 accorded, for the purposes of continuation of higher education, to child education workers and qualified teachers trained in the former teacher training schools a qualification equivalent to the bacharéis (the first level of higher education in Portugal) awarded by higher education institutions or the integrated teacher training centres of the universities. This text stipulated that preparatory staff performing teaching functions would be designated "teachers of the first cycle of basic education".

794. The MINERVA project, which began in 1985-1986, continued to introduce new information technology in teaching and in school curricula and to provide training for teachers in these areas. The evaluation of the project demonstrated that it has made excellent progress and produced very positive results.

795. In the 1987-1988 school year a total of 154 schools were covered by this project, distributed as follows: two special education schools, four preprimary schools, 24 primary schools, 33 preparatory schools (fifth and sixth years of schooling) and 91 secondary schools. The number of schools covered increased during the school years 1988-1989 and 1989-1990. The national coordination machinery was also strengthened by the establishment of a national coordinating commission which was to be able to call on outside experts when necessary.

796. The executive coordinator has a team which provides all necessary technical and administrative support for the project. This reorganization is designed to ensure the project's transition to an operational phase during which it will gradually be incorporated in the normal planning and administration system of the education sector.

797. Decree-Law No. 286/89 of 29 August established the general principles of the reorganization of curricula and study plans in the first, second and third cycles of basic education and in secondary education, as envisaged by the basic law of the education system. The preamble to this Decree-Law states the main objectives of curricula at this level:

- Development of the teaching of the Portuguese language;

- Creation of a component of personal social training;

- Definition of the concept of evaluation as a training tool which encourages self-confidence and strengthens educational support structures with a view to striking a balance between the many different capacities and learning speeds;

- Encouragement of local initiative by providing some scope for curriculum independence and by the design of multidisciplinary and innovative projects to foster a sense of partnership between schools and their local communities.

Lastly, the various humanist, scientific, technological, physical and sporting components of the curriculum are scheduled with a view to securing the integrated development of children and adolescents both for working life and for the continuation of their studies.

798. This reorganization is being implemented in phases on an experimental basis in a representative sample of schools. A curriculum reform monitoring council was created during the experimental period of implementation. In September 1990 the time limits and other organizational conditions for the experimental use of these curricula in schools were established. The support arrangements for the organization of curriculum back-up activities and the plan for establishment of school-centred activities were approved at the same time.

799. By Resolution No. 23/87 of 21 April the Council of Ministers approved an integrated plan to combat the traffic in and unlawful consumption of narcotic drugs and psychotropic substances. This plan, called "Project Life", involves several ministries, including Education. The Education Ministry has already introduced important measures in compliance with the Resolution, including the following:

- Inclusion in school curricula of components on drug use, alcoholism, tobacco-addiction and the illegal use of medicines;

- Inclusion of these components in the initial and further-training curricula of basic and secondary teachers;

- Training of prevention teams to work in schools;

- Information activities aimed at the general public and at young people and parents in particular; these activities, conducted through the mass media, are designed to make large groups of the population more aware of the problems of drugs, the causes which lead to drug use, the dangers involved, and the means of support available for combating drugs or, at least, reducing the damage;

- Dissemination of information about the risks of the spread of AIDS by drug addicts, one of the high-risk groups;

- Publicity and information aimed at students in higher education.

800. Project Life began in 1990, and its work extended to 61 schools. It was set up for a period of three years, which ended in 1993, and it is now being evaluated by the Faculty of Educational Psychology and Sciences in Porto and the Faculty of Human Motivation in Lisbon.

801. Following the establishment of Project Life, the health promotion and education programme was instituted by Order No. 172/ME/93 of 13 August. This programme is concerned mainly with:

- Health promotion and education activities, in particular the prevention of drug addiction and AIDS;

- Encouragement of coordination with other departments of State carrying out programmes in this area.

802. Under the auspices of the Ministry of Justice, the Anti-drugs Planning and Coordination Office undertook studies to determine and evaluate the use of legal and illegal psychotropic substances in schools (see tables IV and V, annex 6). */

803. Decree-Law No. 43/94 of 17 February approved the basic law of the Drug-dependency Prevention and Treatment Service (SPTT). This service is concerned with the treatment and prevention of drug-dependence and the social reintegration of addicts. Table IV in annex 6 */ shows the "lifetime" use (all uses at any time in an individual's life, regardless of the manner, quantity and frequency of use) of third-cycle pupils (aged about 12 to 14) in several schools in the regions indicated. Table V in annex 6 */ shows use during the past 30 days (use during a single month of the individual's life at the time when the information was given) of third-cycle pupils in several schools in the regions indicated.

804. The project known as Escola Cultural (Cultural School) was launched in 1987-1988 in 20 basic and secondary schools on the initiative of the Commission on Reform of the Education System with the support of the Institute for Innovation in Education, and in 1988-1989 it covered a total of 44 schools with 16,284 pupils. The project was designed to test a model school where the strengthening of the school-home environment relationship could offer pupils and teachers an opportunity to carry out joint activities by creating in the school a cultural, civic and sports training space coordinated with the subjects specified in the curricula.

805. Following the decision of the Council of the European Communities of 28 July 1989, which established the LINGUA programme with a view to encouraging the study of foreign languages in the European Community, action was taken in January 1990 to create the National Commission for the LINGUA Programme. This Commission is responsible for coordinating the establishment of the programme at the national level within the framework of the promotion of new models of cooperation among teaching organizations and institutions offering instruction in foreign languages and further training of teachers at the transnational level.

806. Following top-level meetings of the ministers of education of the countries whose official language is Portuguese, a cooperation office for these countries was established in August 1990. This is a coordination and support unit in the Ministry of Education for the bilateral and multilateral cooperation activities with the education sectors of the Portuguese-speaking countries.

807. Where sports are concerned, Act No. 1/90 of 13 January - the basic law on the sports system - established the general framework of the sports system and sought to promote wider participation in sporting activities as an essential cultural factor in the full development of individuals and society. The sports system, in accordance with the constitutional principles, encourages sports for all, mainly in cooperation with the schools, both as recreation and with an eye

to the benefits of sporting activities as a form of training; sporting associations and local communities and authorities are also involved in this undertaking.

808. Decree-Law No. 105/90 of 23 March updated the anti-doping controls to bring Portuguese legislation into line with the international recommendations and with those of the Council of Europe and UNESCO.

809. The basic law on the sports system assigns a very important role to the formation of sports clubs for students and to the administrative bodies of such clubs in the organization and development of sporting activities in higher education. In this context, the Commission for Promotion of Sport in Higher Education (CADES) was established in April 1990. One of the functions of this commission is to cooperate with the Government in determining sports policy for higher education.

810. Attention must also be drawn in this connection to Decree-Law No. 257/90 of 7 August, which introduced specific support measures for top-level competitions with a view to offering sportsmen and sportswomen the technical and material resources demanded by their individual training systems.

811. There are several other measures which reflect the great effort to reform the education system since 1988. The statute of the António Aurélio da Costa Ferreira Institute for Innovation in Education was approved by Decree-Law No. 142/93 of 26 April. This legislation assigns the following functions to the Institute:

(a) Promotion of scientific and technical research as part of the development of the education system;

(b) Encouragement of innovation in education;

(c) Design and coordination of projects for improvement of the quality of teaching and learning;

(d) Promotion of supports for the education system.

812. Attention must also be drawn to the establishment of the Office of Technical, Artistic and Vocational Education (GETAP) as a planning, policy and coordination service for the non-higher education system in the area of technical, artistic and vocational education; the strengthening of this area is one of the priorities of governmental measures to prepare young people for life in society.

813. In addition, the Coordinating Council for Private and Cooperative Education has been restructured and it is already operating at all levels of education; however, it has very limited technical resources for the proper performance of its functions.

814. Pursuant to Decree-Law No. 249/89 of 8 August, the Institute of Scientific and Tropical Research now operates under the Ministry of National Planning and Administration.

Right to primary education

815. In Portugal basic education is universal, compulsory and free (see previous report). According to the framework law, basic education has the following purposes:

(a) To provide a common general training for all Portuguese which will enable them to discover and develop their interests and attitudes, their capacity to think, memory and critical faculties, creativity, and moral sense and aesthetic sensibility by encouraging the development of the individual in accordance with the values of social cohesion;

(b) To ensure that a balance is struck in this training between knowledge and know-how, theory and practice, and school life and daily life;

(c) To stimulate physical and motor development, develop manual skills and encourage education in the arts in order to awaken sensibility to the various forms of aesthetic expression and to identify and stimulate aptitudes in these areas;

(d) To provide training in a first foreign language and familiarization with a second;

(e) To ensure the acquisition of the basic knowledge needed for further education or for enrolment in a vocational training scheme; to facilitate the acquisition and development of individual and group working methods and instruments by developing the work dimension;

(f) To encourage an open national awareness of the realities of life with a view to developing a universalist humanism, solidarity and international understanding;

(g) To develop knowledge of and respect for the characteristic values of Portuguese identity, language, history and culture;

(h) To offer pupils experience which will develop their civic and emotional maturity by encouraging positive attitudes and habits in relating to and cooperating with others, with regard both to their families and to informed and responsible action in their environment;

(i) To stimulate the acquisition of independent attitudes with a view to the development of citizens capable of participating in community life in a civically responsible and democratically active manner;

(j) To offer children with special educational needs, in particular needs due to physical and mental disabilities, suitable conditions for their development and the full flowering of their capacities;

(k) To stimulate the desire for permanent updating of knowledge;

(l) To participate in the process of educational information and guidance in collaboration with the family;

(m) To facilitate the acquisition, in full freedom of belief, of notions of civic and moral education;

(n) To create the necessary conditions for pupils to succeed at school and in their education.

816. In order to achieve effective compulsory schooling, the social units of the Ministry of Education, in collaboration with the municipalities, provide financial aid for pupils in public and other forms of recognized education. A range of social and financial benefits, envisaged in the Programme for Success in Education mentioned above, was recently established on the basis of the support for the expansion of education resources provided by physical and juridical persons in public or private law.

817. Semi-direct education is being maintained in order to provide people living in very remote areas with the opportunity to complete their compulsory period of schooling. Several measures have been adopted since the establishment of this type of education in 1965 with the aim of placing education by television on a par with the direct education provided by the traditional preparatory schools at the same level.

818. More recently, in 1988 in fact, this subsystem based on weekly lessons broadcast by the national television network was restructured in order to correct its lack of flexibility (due to the schedule of television broadcasts) and to reduce the high cost of the broadcasts. The subsystem now consists of a series of lessons on video cassettes. These cassettes are viewed in 1,000 "semi-direct education centres" in accordance with an established weekly timetable.

819. In addition, the officials of the Ministry of Education responsible for the education reform have already decided that this semi-direct education subsystem should be the subject of studies with a view to:

- The introduction during the 1989-1990 school year of arrangements for institutional liaison between the semi-direct education centres and the nearest preparatory schools, with a view to securing mutual benefits for both direct and semi-direct education;

- The gradual integration, beginning in the 1990-1991 school year, of these centres in the system of schools of direct primary education to act as nuclei for future primary schools.

820. The nursery schools of the public system of preschool education receive children from the age of three until the beginning of their compulsory schooling; attendance is optional and free.

821. The basic law of the education system specifies the following objectives for preschool education:

(a) To stimulate the capacities of all children and encourage their training and the balanced development of their whole potential;

(b) To contribute to children's emotional stability and security;

(c) To encourage observation and understanding of the natural and human environments with a view to the children's better integration and participation;

(d) To develop the children's moral training and the sense of responsibility associated with the notion of freedom;

(e) To encourage the children's integration in various social groups, in addition to the family, with a view to developing their capacity for forming relationships;

(f) To develop the children's capacities of expression and communication and their creative imagination, and to stimulate their play activities;

(g) To inculcate habits of individual and collective hygiene and health protection;

(h) To identify problems, disability or precocity and to promote the proper guidance and placement of children.

822. In addition to the nursery schools of the public system, which are established by the Ministry of Education on the proposal of and in collaboration with the local authorities, preschool education is also provided by:

- Cooperative nursery schools;
- Public preschool centres run by the social security system;
- Private preschool centres run by self-help organizations;
- Private schools operating for profit;
- Preschool centres established by the local authorities on their own initiative.

823. The aim of special education policy is to integrate disabled children in the normal education system and in society. The Ministry of Education, through the special education division of the Department of Basic and Secondary Education, has developed integrated education, i.e. the placement of disabled children in normal classes on a full-time or part-time basis. This action is supported by specialized teaching teams, which are itinerant special education teams providing support in the classroom or reception units; the goal is to integrate disabled children in the family, society and school.

824. These special education teams, which are organized on a regional basis, include teachers and child education workers, therapists and other experts. The following are their main functions:

- To identify the educational needs of disabled children and to direct them, when necessary, to the school health observation and diagnosis services;
- To support their integration in schools by providing direct support and guidance;

- To assist the teachers by giving them an insight into the problems of disabled pupils;

- To provide facilities and produce special teaching materials;

- To facilitate, when necessary, recourse by the children to the social assistance services for help with such problems as transport, meals, utilization of school facilities, etc.;

- To provide guidance for parents about educational matters and all matters relating to the integration of their children in the family;

- To support the integration of disabled children in the community;

- To participate in the identification procedures.

825. The modalities of education tailored to the needs of disabled persons attending regular classes, together with the forms of support and evaluation of such pupils, have been established with regard to:

- The "supplementary" classes organized for physically or mentally disabled pupils in subjects which they find it more difficult to take in normal classes;

- Reduction of the number of pupils in the normal classes attended by hearing-disabled pupils;

- Facilitation of access to classrooms for pupils with visual or motor disabilities.

826. It is the normal schools which are responsible, as far as possible, for the education of disabled children and young people. If the seriousness of the disability renders special education essential, the pupils concerned are enrolled in special institutions operating under the auspices of the Ministry of Education and the Ministry of Employment and Social Security.

827. The conduct of teaching research and the introduction of educational innovations for the benefit of disabled young people and the special education institutions will in future be the responsibility of the Institute of Educational Innovation (established in 1987), whose statute has already been published.

828. The initial training of special education teachers is currently organized by the Higher Education Schools in Lisbon and Porto and the Higher Institute of Physical Education in Lisbon. The courses have an academic component and an assisted vocational activity component. The further training is provided by accelerated courses organized by the central services of the Ministry of Education, which are designed to train teachers to become members of the integrated teaching teams.

829. Article 22 of the basic law on education of Portuguese citizens abroad provides that teaching of Portuguese language and culture to the children of migrant workers will be provided by means of courses and activities in the countries of immigration either integrated in or operating as a complement to

the education systems of those countries. The teaching of Portuguese abroad thus achieves its main objective of protecting the education rights of Portuguese citizens and their children who are living abroad, with the double goal of integrating them in the education systems of the countries where they live and work and protecting and developing their cultural and linguistic heritage. The courses in Portuguese language and culture were introduced at the wish of Portuguese and descendants of Portuguese who wanted their children to learn their mother tongue.

830. On the basis of annual proposals by the regional education coordinators and by consultants, a network of courses in Portuguese language and culture has been officially established in Europe (Germany, Belgium, France, Luxembourg, Netherlands, Switzerland, United Kingdom), as well as in South Africa; there is also a private network in several countries throughout the world: United States, Canada, Bermuda, Venezuela, Argentina, Bahrain, Dubai, Oman and Spain - the "Beyond Europe" network.

831. With regard to the "Beyond Europe" network, in 1989-1990 2,905 Portuguese language and culture courses were established and were attended by a total of 47,237 students. The following table shows their distribution by country:

Portuguese language and culture courses and number of students
1989-1990

Country	Courses	Students
Germany	274	6,690
Belgium	33	625
France	1,909	27,967
Netherlands	193	1,690
United Kingdom	99	1,356
Luxembourg	247	4,149
Switzerland	146	2,808
South Africa	104	1,962
TOTAL	3,005	47,237

It should be stressed that Portuguese language and culture continue to play a key role in the development of relations with the African countries whose official language is Portuguese (PALOP).

832. With regard to the guarantee of equality of opportunity for women in education established in all the legislation and in particular in the basic law, attention must be drawn to the conclusion of a new agreement between the Ministry of Education and the Commission on the Status of Women with a view to promoting a change of attitudes towards the role of women in society and achieving effective equality of opportunity for girls and boys in education. This agreement runs for three years and is concerned with the development of activities which will help to eliminate all forms of discrimination against

women. The activities include the initial and further training of teachers, the training of persons responsible for academic and vocational guidance, increased awareness and training for all other persons working in the education system, and evaluation of teaching materials.

833. In view of the importance attached to the civic education of young people as part of their integrated training, as well as to the promotion of human rights and strengthening of the equality of citizens in the education system, the Commission for the Promotion of Human Rights and Equality in Education was established under the auspices of the Ministry of Education. The function of this Commission is to promote awareness of the rights concerned in the schools and to carry out activities to combat discrimination in education on the basis of social status, race, religion, sex, etc.

834. It must be stressed that, in providing the support described above for disadvantaged groups such as ethnic minorities, immigrants and refugees (natives of Cape Verde, gypsies, marginalized young people, illiterate adults, the physically and mentally disabled, fairground workers and circus performers), the Ministry of Education, through the Department of Basic and Secondary Education, has established specific projects for the training of trainers and/or teachers for children and young people in these groups, with a view to their effective exercise of the right of all children to education and academic success, without any discrimination based on their ethnic origin and/or social and family conditions (see tables VI and VII, annex 6). */

Right to secondary education

835. Pending the actual implementation of the basic law of the education system, secondary education is still operating under the arrangements described in the previous report, i.e. it consists of six years of schooling from the seventh to twelfth grades. The basic law establishes the following principles for secondary education:

(a) Development of the ability to reason and think and of scientific curiosity, and inculcation of the fundamental elements of humanist, artistic, scientific and technical culture constituting a suitable cognitive and methodological support for the eventual continuation of studies and integration in active life;

(b) Equipment of young people with the necessary knowledge to understand aesthetic and cultural works and to facilitate improvement of their artistic expression;

(c) Acquisition and application of increasingly advanced knowledge based on study, critical assessment, observation and experiment;

(d) Training of young people interested in the resolution of the country's problems and aware of the problems of the international community, on the basis of the concrete circumstances of regional and national life, with respect for the permanent values of society in general and of Portuguese culture in particular;

(e) Facilitation of contacts with the world of work and experience of working life by strengthening the links between school, working life and the community and by enhancing the innovative and proactive function of the school;

(f) Vocational guidance and education of young people by means of technical and technological training as a preparation for working life;

(g) Development of individual and collective working habits and of attitudes of methodical thought, awareness, openness and adaptation to change.

836. The project on the reestablishment of technical vocational education, which began as a pilot experiment in the school year 1983-1984 for pupils who had completed the ninth grade, established three-year technical vocational courses and 18-month vocational courses, including a six-month final stage (see statistics on the evolution of the numbers of students in table VII, annex 6). */

837. The new basic law of the education system has led to changes in the planning and regulation of the education system with a view to providing education which is sounder, better integrated in the social, economic and cultural fabric, and capable of satisfying the conditions for the academic success of all Portuguese. In the context of these goals, it envisages three means of obtaining vocational qualifications:

- The normal education system which provides regular and systematic training;

- The special modalities of education which provide training which is neither regular nor systematic;

- Specific measures on a more ad hoc and looser basis.

838. The first method consists of secondary education courses lasting three years. The tenth, eleventh and twelfth grades are oriented mainly towards preparation for working life or the continuation of education and they include technical, technological and prevocational training.

839. The second method, vocational training, has become a special modality of education which, in addition to complementing the preparation for working life initiated during basic education, seeks to provide for the effective integration of students in working life by equipping them with the necessary knowledge and vocational skills to satisfy the country's development needs and cope with technological innovations. Access to vocational training is reserved for children who have completed the period of compulsory education, those who will not have done so by the age limit, and workers desiring further training or job conversion.

840. The measures already introduced in order to comply with the provisions of the basic law include the establishment of the Office of Technical, Artistic and Vocational Training (GETAP) (by Decree-Law No. 397/88 of 8 November) and the establishment of vocational schools within the framework of non-higher education (Decree-Law No. 28/89 of 21 January).

841. GETAP is a service responsible for the planning, direction and coordination of the non-higher education system in the technical, artistic and vocational spheres. In the performance of its functions it has to give priority to permanent coordination with other departments of State, in particular the Ministry of Education and the Ministry of Employment and Social Security, as well as with other social partners and local authorities.

842. The vocational schools were established in order to develop and enhance the qualifications of the country's human resources, in accordance with the standards adopted by the European Community concerning the determination and structure of the various levels of vocational training and qualification. These schools must satisfy the development needs of the regions where they are located and ensure the coordinated use of the available resources of the various public and private bodies involved in this work on the basis of a contractual programme or agreement.

843. The first vocational schools were established in 1989-1990 and they were 52 in number in 1990. In that same year 2,070 students received training. The school year 1990-1991 saw the establishment of a further 46 vocational schools. At present there are 98 such schools and 7,000 students.

844. The experiment in technical and vocational education, which was relaunched in 1983, will be continued until the entry into force of the curricula reforms envisaged for secondary education; meanwhile, the network of available training courses is already being reformed, as are the vocational profiles (in collaboration with the social forces and other entities interested or active in the areas concerned); the schools are also being reequipped.

Higher education

845. The right to higher education established in the Portuguese Constitution is spelled out in article 12, paragraph 4, of the basic law of the education system, which reads:

> "The State shall create the conditions to guarantee citizens an opportunity of obtaining higher education, in such a way that all the discriminatory effects stemming from economic or regional inequalities or prior social disadvantages are eliminated."

846. The following are the objectives of higher education:

(a) To stimulate cultural creativity and develop a scientific outlook and the ability to think;

(b) To equip graduates in all subjects with the qualifications required for employment in the professions and for participation in the development of Portuguese society, as well as for involvement in their own further training;

(c) To encourage scientific investigation and research for the development of science and technology, and the development and dissemination of culture, in such a way as to develop the understanding of man and his environment;

(d) To promote the dissemination of the cultural, scientific and technical knowledge which constitutes the heritage of mankind and to communicate knowledge through teaching, publications or other means of communication;

(e) To stimulate a permanent desire for cultural and professional improvement and to facilitate this by incorporating the knowledge acquired into an intellectual structure which systematizes the knowledge of each generation;

(f) To stimulate knowledge of the problems of today's world, in particular national and regional problems, to provide specialized services for the community, and to establish a reciprocal relationship with the community;

(g) To continue the cultural and professional training of citizens through the promotion of suitable forms of cultural extension activities.

847. These objectives are to be achieved in the short term by:

- Correcting the existing imbalances in the distribution of students among the various institutions of each region and of different regions, taking into account the density of the young population;

- Promoting shorter courses of higher polytechnic education leading to a vocational qualification but offering the possibility of easy transfer from one system to the other with respect both to the form of education and to its level;

- Modifying the arrangements for access to higher education so as to establish greater justice and efficiency. These arrangements are applicable to all higher education - university (public and private) and polytechnic;

- Promoting close relations between higher education and the national production system by means both of agreements with business enterprises and of studies of regional needs with a view to the active participation of the institutions in the socio-economic development of the country and its regions;

- Achieving a rate of 20 per cent for students aged 17 to 25 and a rate of 25 per cent for university students by 1992.

848. Higher education includes university and polytechnic education. University education is designed to provide a sound scientific and cultural preparation together with technical training to qualify the students for professional and cultural activities and to develop their capacities of creativity, innovation and critical analysis.

849. Portuguese universities confer the following qualifications:

- The licenciatura certifies four, five or six years of study;

- The mestrado, reserved for holders of the licenciatura, certifies two years of study and submission of a thesis;

- The doctorate, reserved for holders of a licenciatura or mestrado, certifies the ability to carry out top-level original scientific research.

850. The universities enjoy independence in scientific, teaching, administrative, financial and disciplinary matters.

851. The Council of Rectors of Portuguese universities (CRUP) performs a very important function. Its membership comprises the university rectors and the President of the National Council on Higher Education and it is responsible for coordinating and giving opinions on higher-education activities in the universities.

852. The expansion of higher education in the universities is part of a policy of diversification of higher education and of development of the regions where the "new universities" are located: Algarve, Azores, Aveiro, Evora, Minho, Trás-os-Montes and Alto Douro, Beira Interior and Madeira (1988). At present there are 15 public universities, including one in each of the autonomous regions - Madeira and Azores - two higher schools of dental medicine and the Higher Institute of Labour and Business Sciences. The Open University was created very recently (1988) to offer formal and informal courses by radio, video and correspondence. The first phase of this undertaking was concerned with the in-service training of secondary teachers and designed to enable students to complete the last years of certain courses, for example in the arts, including modern literature.

853. Polytechnic education is designed to provide a sound cultural and technical training at the higher level, to develop the capacities of innovation and critical analysis, and to offer training in theoretical and practical scientific subjects and their applications with a view to careers in those areas.

854. Courses in higher polytechnic institutes lead to the qualification of bacharel for the subject of specialized training. If they wish, and after obtaining a certificate of equivalence, students can easily continue their higher studies in a university.

855. Polytechnic education is a means of diversifying higher education and can also fill the more serious gaps in several social and economic sectors in the regions by training qualified personnel for activities which need to be developed but are either non-existent or only partially in place. The network of polytechnic education has already been extended to several regions in order to reduce regional social imbalances.

856. The network of institutions of higher polytechnic education includes the higher education schools, the higher technical schools, the higher agricultural schools, the higher schools of the arts, and the higher engineering institutes which are incorporated in the 14 polytechnic institutes and in the higher institutes of accounting and administration which are currently being established.

857. Higher university and polytechnic education has also been expanded in the private and cooperative sectors. The Portuguese Catholic University was established in 1971 under the Concordat between Portugal and the Holy See.

Since 1986, 65 private institutions of higher education have been established, including four universities, which confer the degrees of licenciatura or bacharelato.

858. The numbers of students in private higher education underwent a considerable increase in 1989-1990 in comparison with 1986-1987, evidence of the extent of the expansion of private and cooperative education. The diversification of university education through the introduction of new courses in the public and private universities and in the polytechnics contributed to this increase in student numbers.

859. In 1987-1988 359 courses were offered in the universities and other public higher education institutions operating under the Ministry; there were 172 higher polytechnic courses and 144 private higher education courses.

860. The mestrados (post-graduate courses) have also undergone a significant development: in 1987-1988 260 courses were offered in the public universities and 12 in the Catholic University, covering the arts, education sciences, law, social sciences, political sciences, anthropology, theology, ecology, social communication, economics, exact and natural sciences, medical sciences, biological sciences, agriculture, forestry, livestock-raising, fisheries, etc. The private universities also confer the degree of mestrado. The "Portucalense" University offers this degree in finance and international relations, and the "Lusíada" University offers it in law.

861. The total number of students enrolled in higher education increased from 82,000 in 1983-1984 to approximately 120,000 in 1987-1988 (an increase of 75 per cent) and to 160,000 in 1989-1990. Private higher education offered almost the same number of places as public higher education in 1990-1991.

862. The new arrangements for access to higher education mentioned above will provide inter alia:

- A wider range of courses for students to choose from;
- A gradual increase in the student rate of 14.5 per cent planned for the academic year 1990-1991 to 25 per cent in 1992 in order to reach the average of the countries members of the European Community;
- The active participation of higher education institutions in the student selection process.

863. With regard to higher military education, the Air Force Academy, the Military Academy and the Naval School confer the degree of licenciatura. The Higher Police School and the "Pupilos do exército" School confer the degree of bacharelato or equivalent.

864. Access to higher education institutions in the private sector is governed by exactly the same regulations as in the public sector. The Rector has to establish the number of vacant places for each year and each course.

865. The tuition fees paid by higher education students in the public sector has remained unchanged. Such students pay an annual amount of 1,200 escudos. Thus, this education is virtually free.

866. The tuition fees of students in private education range between 120,000 and 190,000 escudos a year. Financial assistance is currently available for students in private institutions of higher education in accordance with the institutions' rules and is decided by means of a national competitive examination established under recent legislation. The candidates' marks and their family incomes determine the amount of the assistance to be provided in the form of a scholarship to cover the difference between the tuition fees in public and private education. Students may thus take advantage of a network which offers more subjects and is fairly widely established.

867. Principle of non-discrimination. Pursuant to article 13 of the Constitution, there is no discrimination based on race, religion or sex in Portugal or in the legislation in force and its application. However, there are specific regulations governing the cases of emigrants and their children, nationals of African countries whose official language is Portuguese, and diplomats and their families: they do enjoy advantages with regard to access to higher education.

868. At the end of the 1960s the proportion of women taking courses leading to the degrees of licenciatura (four to six years of study) and bacharelato (three years of study) was already 43.7 per cent. In 1986-1987 it was 50.2 per cent. This figure is almost the same as the figure for secondary education in the same school year: 54.9 per cent of students were female.

869. The proportion of women (obtained by dividing the percentage of women in a certain subject by the percentage of women in the total student population) increased in engineering, agriculture and forestry, law and social sciences; under the "others" heading, the increase was in new courses in tourism and physical education. However, it should be noted that the representation of women was still poor in engineering (25.3%) and agriculture, forestry and fisheries (48.4%).

870. There are more female students in the younger age groups. When the proportion of women was still about 50.2 per cent (in 1986-1987), the figures were 53.7 per cent in the 19-22 age group and 52.3 per cent in the 23-25 age group, falling to 48.2 per cent for the 23-29 age group and 39.9 per cent for women aged over 30. More recent data indicate that in 1989-1990 the proportion of women in higher education was 52.7 per cent.

871. In 1986-1987 more women than men obtained higher education qualifications - the degrees of licenciatura and bacharelato - and they represented 52.2 per cent of the total; the following subjects had the highest figures: the arts, medical sciences, exact and natural sciences (see tables IX and X, annex 6). */

872. The average proportion of women obtaining doctorates between 1970 and 1985 was 23 per cent. In this period most of the doctorates were obtained in scientific and technological subjects - 76 per cent by men and 77 per cent by women. The doctorates obtained by women in engineering were mainly in the chemical branch (26 out of 40) (see table XI, annex 6). */

Right to basic education

873. Adult literacy programmes and basic eduction, provided for the dual purpose of the personal development of adults and their gradual involvement in

cultural, social and political life, are the responsibility of the Department of Educational Extension Work (DGEE). Following the creation of the regional educational boards, the regional adult education units were merged with these boards from February 1988.

874. These arrangements include the district and municipal coordination offices, which establish, coordinate and direct local adult education activities. A large corps of personnel consisting of seconded teachers, scholarship-holders and extension workers perform important roles as teachers of adults and as mediators and coordinators of the various bodies involved in promotion and development.

875. The adult literacy and basic education policy is set out in the National Adult Literacy Training and Basic Education Plan (PNAEBA), mentioned in the previous report. The National Assembly adopted the basic law of the education system (Act No. 46/86 of 14 October) which is having a clear impact on adult education and educational extension work. In 1991 this basic law was further developed by Decree-Law No. 74/91 of 9 February, which established the general framework for the organization and development of the further and extramural components of adult education.

876. These types of education, which are designed for students who are too old to attend normal schools, are based on the following principles:

(a) Encouragement of the acquisition of increasingly advanced knowledge;

(b) Training for employment;

(c) Training and personal and social development.

877. Only persons aged over 15 may have access to adult further education at the basic level, and persons aged over 18 at the secondary level. The further education is designed to provide schooling for all persons who did not attend the education system as children.

878. Extramural education is defined as a range of educational and cultural activities conducted under the extension work arrangements of the school system. Extramural education has the following main goals: eradication of illiteracy, contribution to educational and cultural democratization, development of attitudes of solidarity and participation, training for employment, upgrading of knowledge and know-how, and encouragement of the creativity of young people and adults in the organization of their leisure time.

879. The 1989 programme also included a number of guidelines for the three-year period 1989-1992:

- Development and reformulation of vocational training policy, on the understanding that the measures cofinanced by the European Social Fund are designed to combat long-term unemployment and help young people to find jobs;

- Utilization by common consent of national and Community funding, in particular the Education Programme for Portugal;

- Incorporation of a regional strategy in the planning and development process, giving emphasis, among many different modalities of intervention, to integrated rural development operations.

880. The DGEE programmes correspond in their general orientations to the PNAEBA programmes; some adjustments have of course been made during the implementation of these programmes, and some new and more up-to-date activities have been launched. Attention may be drawn to the following DGEE programmes:

881. Literacy and basic education (first cycle of adult further education): a programme for illiterate and semi-literate persons providing, in addition to teaching of written communication, basic training in subjects closely connected with daily life. In the period 1984-1990 some 9,828 courses were established for 122,290 students. The literacy and basic education courses are normally run by seconded teachers and scholarship-holders, and sometimes by extension workers as well (see table XII, annex 6). */ In recent years the younger age groups, in particular the 14-19 group, have tended to dominate in these courses (table XIII, annex 6). */

882. Since adult education must be designed to meet the needs of the students and based on concrete situations and problems, the DGEE is in the process of preparing framework programmes. Their content provides only a common basis for specific learning programmes for each group of adults and institutions which will take their background into account.

883. A project on the production and testing of teaching materials called "Successful learning" is under study; it is tailored to the needs of the students. As part of its campaign against illiteracy, the DGEE organized a forum in May 1990 on "Literacy, what future?". The main purpose of this initiative was to launch a national debate among the persons directly concerned and responsible for adult education in order to identify strategies for change which would lead to a significant reduction in Portugal's illiteracy rate, which is the main goal of the Ministry of Education. Efforts have also been made to increase public awareness of the problem and mobilize all organizations, both governmental and non-governmental, in order to obtain support for the literacy programmes.

884. The DGEE also conducted activities under the auspices of the Commission for International Literacy Year in accordance with the goals stated in the resolution of the Council of Ministers which are designed to clarify, strengthen and develop national literacy policy. For this purpose, and following regional forums in the North, the Centre, Lisbon and the South, an international forum was held in Lisbon on 3-5 December 1990 at the Calouste Gulbenkian Foundation.

885. The literacy training is usually backed up by social and cultural promotional activities. These activities are concerned with the development of communities or population groups regarded as communities and they include a diversified range of measures.

886. The second-cycle adult further education activities conducted by the DGEE were established as an alternative to the intensive and supplementary courses of formal education. Their purpose is to respond to requests from thinly populated regions and from places where there are no evening courses and to provide

assistance for the increasing number of young people who want to complete their schooling. There is a growing demand for these courses.

Second-cycle adult further education activities
1984-1985 to 1989-1990

Year	Courses	Students
1984/85	125	1,665
1985/86	196	3,205
1986/87	236	4,629
1987/88	416	9,098
1988/89	878	13,362
1989/90	956	18,185
TOTAL	2,807	50,143

887. In 1986 the Ministry of Education and Culture issued an Order for the design of an experimental project on the restructuring of secondary evening courses. This Order established inter alia the curricula, the list of schools to be involved in 1986-1987 and the number of experimental classes in each school. This project was born of awareness of the fact that evening courses were not adapted to "the students' interests and age group, and that this had an impact on their performance".

888. According to the provisions of this same legislation, the curricula and programmes must be determined in the light of a new attitude to training in evening classes which takes into account the objectives of adult and worker students. The experimental project was regarded as a more valid solution than the present form of evening education, since young people who drop out of the normal system without obtaining the certificate of completion of compulsory schooling are more likely to enrol in an informal education programme, and it was therefore decided, by ministerial order in 1988, that the establishment of all evening courses of preparatory education would be the responsibility of the DGEE from 1988-1989.

889. Decree-Law No. 362/89 of 19 September stipulates that, in addition to the second-cycle evening classes, the DGEE will gradually assume responsibility for the third-cycle classes previously run by the Department of Basic and Secondary Education, in particular the courses connected with the experiment of introducing a credits system in the third cycle of basic education. Thus, pursuant to Order No. 11/SERE/90, the transfer of responsibility for the credits system to the DGEE is under way, and a working group on the reorganization of the third cycle of evening basic education classes has been established.

890. Education under the credits system is available as an alternative to the general evening classes; these new courses have introduced a new educational procedure and a range of different subjects, so that students can take any course of secondary education, including technical-vocational courses and the courses of the vocational schools.

891. The advantages of this system include:

- Greater flexibility in that students may take elementary credit courses in some subjects and more advanced courses in others;

- Greater independence in that the system encourages the acquisition of study techniques and the habit of individual research;

- Avoidance of pointless retaking of subjects, for a student who has interrupted his studies can resume them, if he wishes, at the beginning of the credit course immediately above the one which he has successfully completed;

- The time taken to complete the course depends more on the student than on the school.

892. Since 1982-1983 the DGEE has been conducting social-occupational activities both as an additional component of the first and second cycles of adult further education and under integrated regional projects.

893. The social-educational and social-vocational courses are designed to contribute to the overall development of communities by increasing the family income of the students and making it easier for them to find jobs, as well as by satisfying current employment needs. There is a great variety of these courses, covering such diversified subjects as agriculture, family training, handicrafts, embroidery, dressmaking, electricity, typing, etc. In 1989-1990 there were 750 of these courses for a total of 11,231 students, with women in the majority.

894. The organization of long-term vocational training courses with the support of the European Social Fund is another activity conducted by the DGEE. In 1987 these courses were concerned mainly with the training of development agents and "wage supplement" projects for young people aged 18 to 25 and over 25.

895. In 1989 the DGEE introduced five framework programmes for the coordination of technical and practical training. These programmes are concerned with:

- Vocational training for young people aged 14 to 18 to provide them with qualifications for jobs available at the regional level;

- Vocational training for young people aged 18 to 25 leading to occupational qualifications enabling them to find jobs and/or retain their jobs;

- Training of trainers; under this programme properly qualified persons who can prove a minimum of three years work in the specific area of their vocational qualification will be able to transmit their knowledge, and the corresponding know-how, taking into account the specific basic education attainments of the students;

- Specific innovative measures involving the training of 50 persons for the purposes of research into occupational training methodology, including learning to read and write;

- "Wage supplement" for young people aged 18 to 25 taking informal adult education courses, with a view to encouraging local initiatives.

896. Within the framework of PRODEP (adult education subprogramme) the DGEE is at present continuing the measures containing a Community component which were introduced for the four-year period 1990-1993. The target population for these measures is persons aged over 14 who have not completed the period of compulsory education. They thus promote the effective equality of educational and occupational opportunities for people who have not attended or dropped out of the regular education system. Training will be provided for approximately 41,400 students.

897. Different kinds of activities are arranged, for the aim is to tailor each one to the specific characteristics of the participants, their achievements and interests, as well as to the needs and potential of the socio-economic context. The general objectives of these activities are to offer young people and adults training which will enable them to complete the period of compulsory schooling and obtain a level-1 vocational qualification (Community standards).

898. The people's education associations are training organizations set up and run by the people themselves which often offer innovative activities. Accordingly, the Department recognizes them as valuable agents in adult education and cultural development; it supports them by means of scholarships, subsidies, provision of teaching materials, loan of audiovisual materials, training of managers and activity-leaders, etc.

899. The integrated regional programmes seek to incorporate adult education in the balanced development of local communities through the intensive and integrated use of the various educational resources available and by creating forms of inter-institutional collaboration which, through the involvement of the various services responsible for local development, can provide a comprehensive response to the equally comprehensive needs of the population. Furthermore, through this kind of action an effort is being made to identify new and more comprehensive subject matter for adult education, integrate the literacy dimension in development activities, determine new training profiles, produce and test materials at the local level, and experiment with local modalities of organization and management of adult education; in short, an effort is being made to set in motion a vigorous local development process which seeks to improve standards of living. Some programmes have been established on the initiative of the DGEE, giving emphasis to collaboration and coordination with other bodies, while others have been incorporated as an adult education component in projects run by other organizations, in particular the integrated regional development projects.

900. The project "Adult education and social change", which is organized as a network, is coordinated with the activities of the Council of Europe carried out under the project of the same name. This project has two groups of actions, the first concerns the long-term unemployed, and the second the elderly. The Portuguese project concentrates on the first group and seeks greater effectiveness in the measures to help the long-term unemployed to find work in a socio-economic environment in constant change, and to provide other States with

information to help them determine their actions in these areas. In addition to Portugal, this group consists of Germany, Netherlands, Yugoslavia, Switzerland and the Nordic countries.

901. Cooperation in education takes place under the auspices of several international organizations and of bilateral cooperation. As far as cooperation with international organizations is concerned, the participation of the DGEE in meetings and activities of the European Community has been upgraded for the specific programmes "Equality of opportunity" and "Anti-illiteracy campaign". European officials responsible for these two programmes have already visited Portugal in order to familiarize themselves with the adult education subsystem. The DGEE has also made a contribution to the research/action project. In addition to the study visits for education experts, in which specialists from the Department have participated, the establishment of training activities is also facilitated by the development support projects of the European Social Fund and the financial support of the Community.

902. The participation of the DGEE in the activities of the Council of Europe was also continued in the project "Adult education and community development", which concluded in 1988 with a final conference which adopted a recommendation to member States. In addition to participating in this project, the DGEE sent representatives to meetings and on visits on the theme of the contribution of the media to community development.

903. The Department also participated in the project "Adult education and social change" of the Council of Europe, the aim of which was to establish local development projects. In this context, the first international meeting of project networks was held in Lisbon; Spain, Italy and the Nordic countries attended. A seminar and a study visit also took place in Portugal in November 1990 to consider questions of education and local development and the coordination of general education with vocational training in the context of adult education.

904. The scholarship system has also offered training opportunities for DGEE personnel.

905. With regard to relations with UNESCO, Portugal's Minister of Education and the DGEE attended the International Conference on Education (October 1988) and the annual commemoration of International Literacy Day, which is one of the means of making people more aware of the anti-illiteracy campaign. In 1990 the DGEE also attended the forty-second International Conference on Education and the World Conference on Education for All as part of the preparations for International Literacy Year.

906. Attention must be drawn in the context of bilateral cooperation to the large investment in the training of DGEE personnel provided by collaboration with France.

907. Attention must also be drawn to the Department's commitment to cooperation with the African countries whose official language is Portuguese (PALOP), especially Mozambique and Cape Verde, both through the Portuguese presence at the meeting of directors of adult education of the five Portuguese-speaking countries and through the provision of consultants and teaching materials, as

well as by welcoming personnel from these countries to Portugal for the purposes of an exchange of experience and familiarization with their adult education systems.

Development of the school network

908. Article 39 of the basic law (Decree-Law No. 46/86 of 14 October) states with respect to school buildings that:

(a) School buildings must be planned so as to provide integrated facilities and must have sufficient flexibility to be used as much as possible for various community activities; their design must take into account the changes at the different levels of education and in curricula and teaching methods;

(b) The design of school buildings must also take into account not only school activities but also leisure activities and the school's involvement in out-of-school activities;

(c) The density of the network and the dimensions of the school buildings must take into account regional characteristics and needs and be capable of housing a balanced number of pupils so as to provide conditions for good teaching and the functioning of a genuine school community;

(d) The special needs of the disabled must be taken into consideration in the design of buildings and the choice of equipment;

(e) The management of the facilities must comply with the requirement of contributing to the academic success of the pupils.

909. Attention is drawn to other legislation such as:

- Decree-Law No. 460/85 of 4 November 1985, which established the measures to be adopted to combat academic failure in primary education by creating better conditions for good teaching;

- Decree-Law No. 108/88 of 31 March 1988, which provides that the private and cooperative schools in non-higher education operating under the auspices of the Ministry of Education shall be incorporated in the stock of schools for the purposes of its reorganization from the school year 1988-1989;

- Agreements concluded, especially with regional bodies, for the preparation of integrated regional development plans;

- Decree-Law No.369/89 of 23 October, which created the Department of School Administration, abrogating Decree-Law No. 151-E/86 (86) of 18 June, which had established the former Department of Educational Facilities and Equipment;

- Decree-Law No. 361/89 of 18 October, which established the regional education boards.

910. The Department of School Administration (DGAE) and four regional education boards were established in the same year in order to perform the following functions: the DGAE has central responsibilities for personnel, equipment and facilities and organization of official institutions of non-higher education; the regional boards are responsible for regional coordination and support of schools and other non-higher education institutions and for the management of their human, financial and material resources.

911. The DGAE has the following functions:

(a) Devising and planning policies for human and material resources and organization of public education institutions and institutions of non-higher education by providing, when necessary and on request, technical support to universities and other higher education institutions;

(b) Determining the general criteria for annual changes in the school system, the types of school and their equipment, and the standards for the construction of school buildings and for school services;

(c) Monitoring the implementation of the civil service integrated investment plan in matters concerning educational facilities;

(d) Supporting within its sphere of competence the implementation of the policy measures of the regional education boards and education institutions, especially in the management of human resources and educational facilities;

(e) Ensuring, in close coordination with the Department of Basic and Secondary Education, the preparation of the annual plan for training and refresher courses for teaching staff responsible for education institutions and institutions of non-higher education and for non-teaching staff;

(f) Evaluating the results of competitive examinations, placements, secondments, requisitions, transfers, exchanges and missions involving teaching and non-teaching staff, in accordance with the applicable legislation;

(g) Furnishing technical and logistical support requested by the regional education boards in accordance with their terms of reference.

912. The regional education boards perform the following specific functions:

(a) Local incorporation of the various subjects of preschool, basic and secondary education, in accordance with the general instructions and guidelines issued by the competent central services, and coordination and monitoring of the organization and functioning of non-higher education institutions and the management of human, material and financial resources;

(b) It is the responsibility of the regional boards, generally within their geographical areas and in accordance with the criteria established by the central services, to:

(i) Ensure the horizontal and vertical coordination of the levels and types of non-higher education in accordance with the principles and standards determined by the central authorities;

(ii) Promote the implementation at the regional level of the national policy and objectives for the various levels of non-higher education;

(iii) Produce an inventory of regional education needs;

(iv) Prepare regional education plans and thereby participate in the preparation of the national plans;

(v) Attend to financial management and the management of material resources and assets;

(vi) Coordinate at the regional level the collection of the information needed by the central services and offices of the Ministry for the purpose inter alia of monitoring the national education policy and systematically evaluating its results;

(vii) Administer at the regional level the sector's development plans and the investment budget;

(viii) Disseminate at the regional level the instructions of the central services and the technical information provided for teaching institutions and users in general;

(ix) Cooperate with other services and organizations at the regional level with a view to carrying out joint education and vocational training activities.

913. The following are the main trends in medium-term planning for the first cycle of basic education:

- Incorporation of one or more preschool cycles in the first cycle of basic education;

- Incorporation of isolated schools into networks associating single-teacher schools with lead-schools (up to 10 teaching posts) in clearly delimited geographical and administrative zones.

The number of pupils per class has declined in the first cycle of basic education.

914. In the second and third cycles of basic education and in secondary education there is great flexibility in the use of facilities. For example, the preparatory schools (C), if their reception capacity allows, provide the third cycle of basic education in addition to the second cycle, and the preparatory and secondary schools (C+S) built in municipalities where there are no secondary schools, provide the supplementary courses. These provisional solutions will be implemented within the framework of the medium-term planning of the stock of schools, which will be undergoing reorganization up to the end of the century.

915. The construction of schools for the second and third cycles of basic education could be one of the immediate priorities, subject to the availability of land and materials and the conclusion of agreements between the Ministry of Education and the municipalities, which are responsible for 30 per cent of the

costs and for start-up and supervision of the construction work. Criteria for the reorganization of the stock of secondary schools are under study, and account will be taken of the need for vocational schools and reorganization of technical and vocational training. In this connection see tables XV to XX, annex 6. */

Establishment of an adequate system of school social services

916. The basic law specifies the following goals for social assistance in schools:

(a) School social services shall be established for preschool and school education through the implementation of positive measures of social and educational discrimination in favour of the most disadvantaged pupils;

(b) The school social services shall undertake a range of diversified activities, including participation in the provision of school meals, canteen services, transport, accommodation, and textbooks and teaching materials, and in the provision of scholarships.

917. The activities of the Institute of Social Welfare for School Children (IASE) are designed to ensure that the compulsory period of schooling is in fact free (from the preschool level to the completion of the ninth year of basic education) and to provide the necessary conditions for the continuation of education in secondary schools. These activities also cover pupils in special education institutions run by public, private or cooperative special education organizations.

918. The school social services in non-higher education carry out a diversified range of activities, including:

- Nutrition (free glass of milk and subsidized meals);
- Accommodation for students;
- Economic support (books, school materials, etc.);
- School health;
- School insurance;
- Transport;
- Socio-educational information.

919. The legislation on the functions of the IASE includes:

(a) Decree-Law No. 133/93 of 26 April, which revoked Decree-Law No. 3/87 of 3 January, approved the new basic regulations of the Ministry of Education. Decree-Law No. 133/93 defined the functions of the Ministry of Education:

(i) To promote the development and modernization of the national education system;

(ii) To strengthen the links between education and research, science and technology, and culture with a view to innovation in the education system;

(iii) To preserve and extend the use of the Portuguese language;

(iv) To promote the development of a coherent sports policy.

These functions are part of the effort to modernize and upgrade the national education system;

(b) Order No. 263/85 of 9 May introduced measures concerning pupils in public education institutions and in private or cooperative institutions which have concluded a contract of association and curriculum alignment with preparatory and secondary schools;

(c) Decree-Law No. 35/90 of 25 January stipulates that education shall be free during the period of compulsory schooling. This includes exemption from all school fees and charges;

(d) Regulations No. 36-A/SEAM/90 of 17 May and No. 22/SEAM/90 of 25 May, which established the amount of funding for socio-educational assistance and the amounts to be contributed by pupils.

920. Developments in the various areas where measures are being implemented under the auspices of the IASE and the municipalities are shown in the statistical tables at the end of the chapter. School social services are provided by decentralized intermediate bodies, which are required to study the local situations, promote a dialogue between the schools in the same area and between them and the IASE, and coordinate and monitor activities at the regional and local levels.

921. With regard to the administrative and operational structure of the school social assistance functions transferred to the municipalities, each municipality has a Consultative Council on School Social Assistance (CCASE) consisting of the mayor (or his deputy), a representative of the schools and two teachers. For school transport, each municipality or executive body of an association or federation of municipalities has a Consultative Council on School Transport (CCTE) (chaired by the mayor or the chairman of the executive body, or their deputies) and consisting of a teacher from each post-primary school for which school transport is provided, an educational adviser or a television teaching coordinator, a representative of the schools and a representative of each of the companies holding concessions to provide municipal public services.

922. Every university has its own social services, the administrative and operational structure of which is defined in the regulatory decrees setting up the services. As a rule, these services are juridical persons in public law with administrative and financial independence and the following offices: a chairman (ex officio the university rector), a general board and a board of management. The chairman is supported by a vice-chairman to whom he may delegate some of his powers. In addition to these bodies, the university social services also have operational and support branches. These branches work mainly in the following areas: accommodation, meals, scholarships and loans, libraries and study materials.

923. Lastly, mention must be made of the Council on Social Services in Higher Education (CASES) consisting of the chairmen and vice-chairmen of the higher education social services, the chairman of IASE and a representative of the DGEE. This Council is basically responsible for:

- Proposing social services policy for higher education to the Minister of Education;

- Establishing and proposing to the authorities standards and criteria for social services with respect both to the provision of financial assistance and to the services themselves;

- Proposing the list of institutions in which each social service should operate;

- Proposing the creation and discontinuation of social services;

- Approving the annual and pluriannual work plans and the annual reports on the work of the social services.

924. Article 15 of Decree-Law 271/89 of 19 August stipulates that private higher education shall receive, from the 1990-1991 academic year, a subsidy for the scholarships awarded on the basis of a national competition to students in private higher education institutions in accordance with pre-established criteria such as the students' marks and the financial circumstances of their families. The difference between the tuition fees of public and private education determines the basic amount of the scholarships.

925. the National Institute of Scientific Research (INIC), established by Decree-Law No. 538/76 of 9 July, also provides scholarships for scientific research and advanced training. It provides several kinds of scholarship:

- Bursaries for teachers on sabbatical leave to enable them to take courses or carry out research abroad; they are intended specifically for higher education teachers entitled to sabbatical leave and must be used during such leave;

- Post-doctorate scholarships for study or research abroad; they are intended for holders of doctorates from higher education institutions or research institutions who have obtained that qualification less than two years before the award of the scholarship;

- Doctorate scholarships for holders of the degrees of licenciatura or mestrado for training of Portuguese higher education teachers and researchers in the country's universities and research institutions or, exceptionally, abroad;

- Mestrado scholarships for the holders of the licenciatura, with a view to the training of Portuguese higher education teachers and researchers in the country's universities;

- Specialization scholarships for the holders of a higher education diploma who wish to work or acquire skills in the INIC research centres;

- Initial research scholarships awarded to higher education students with a view to contributing to the work of the INIC research centres;

- Research scholarships for young people awarded to persons aged under 30 who hold a licenciatura or students with two years remaining before award of this degree, or students in the last year of a course leading to the degree of bacharel;

- Short-term scholarships for higher education teachers and researchers to enable them to participate in scientific conferences, take courses or make study visits in Portugal or abroad and, on a reciprocal basis, for foreign teachers and researchers who come to Portugal on the same terms.

926. The function of the Institute of Portuguese Culture and Language (ICALP), established by article 13 of Decree-Law No. 3/87 of 3 January, is to promote and support Portuguese culture and language throughout the world. It undertakes many different activities in teaching, scientific research and exchanges, and it is responsible in particular for the following measures:

- Establishment and maintenance of lectureships in Portuguese culture and language abroad;

- Provision of grants to Portuguese universities for the organization of courses in Portuguese for foreigners;

- Support for Portuguese cultural institutes and centres abroad;

- Award of research scholarships in Portuguese language and culture to national and foreign researchers;

- Support for national or foreign cultural activities in the humanities which have a direct connection with the objectives of the ICALP;

- Organization of special courses for the training of teachers of Portuguese in foreign universities;

- Organization of Portuguese language and culture courses for teachers of Portuguese who are nationals of the African countries whose official language is Portuguese;

- Support for foreign students wishing to take language courses in Portugal or receive technical training in enterprises;

- Collection of information and documentation on Portuguese language and culture;

- Production and distribution of its own publications and those of other publishing houses.

927. In order to facilitate direct contacts with Portuguese language and culture, ICALP offers foreign nationals research scholarships to attend courses in Portuguese universities. The following are the types of scholarship awarded by ICALP for this purpose:

- Scholarships for annual courses of intensive study of Portuguese language and culture in the arts faculties of Lisbon and Coimbra;

- Scholarships for the summer courses run by the arts faculties of Lisbon and Coimbra;

- Special scholarships for courses in Portugal for foreign teachers of Portuguese language and culture working in foreign universities or other institutions;

- Courses for Portuguese or foreign nationals interested in research projects in the field of applied Portuguese language and culture.

928. In order to satisfy current needs and cope with the cultural challenges of the near future, ICALP prepared a three-year programme with the following priorities:

- Support for the efforts made by the Portuguese-speaking nations of Africa in the training of teachers of Portuguese language and culture, production of textbooks and study materials, and expansion of cultural exchanges;

- Reestablishment of a dialogue with the cultures and peoples of the East to whom Portugal is linked by several centuries of history.

929. In recent years ICALP has been making efforts to promote Portuguese language and culture throughout the world. In view of the current importance of information technology, it has endeavoured to lay the foundations of a project on the use of information technology for the promotion of Portuguese language and culture, especially the teaching of Portuguese literature.

930. An audiovisual sector has also been established and it includes not only the ICALP productions (videos in the "Portuguese writers" series on, for example, Miguel Torga, Fernando Namora, Fernando Pessoa, Lídia Jorge and Fernando Dacosta) but also thematic commercial videos and cassettes with the visual component provided by the Portuguese radio and television service. These materials, which are available in five locations (Lisbon, Paris, Budapest, Macao and Brazil) are designed for use as teaching aids and to promote the teaching of Portuguese language and culture. Work is also proceeding on a video, produced and directed by ICALP, on the exhibition "Portuguese Discoveries" held at the "Jerónimos" in December 1989.

931. With regard to international cultural activities, ICALP has supported colloquiums, seminars, cultural weeks and exhibitions; it has also participated

in book fairs, Expolíngua (Lisbon) and Expolangues (Paris), as well as sponsoring cultural activities arranged by its lecturers in foreign universities.

932. In accordance with Decree-Law No. 135/92 of 15 July, ICALP was replaced by the Camões Institute. Its main functions are the promotion of teaching of Portuguese language and culture. Operating along the same lines as the former ICALP, it has the following functions:

- Promotion and support of Portuguese basic and secondary education abroad;
- Support for the dissemination and teaching of Portuguese language and culture, mainly through the award of scholarships;
- Support for activities which contribute to the dissemination of Portuguese language and culture;
- Support for cultural activities in Portuguese communities abroad;
- Implementation of essential measures for stimulating the interest of young people in Portuguese language and culture;
- Promotion of Portuguese as an international language;
- Production and publishing of texts on Portuguese language and culture for distribution abroad;
- Regular evaluation of the activities which it supports;
- Participation as a member in the activities of foreign and international organizations having similar objectives.

933. The Department of Higher Education awards short-term study scholarships (three months) or long-term scholarships (one academic year) for study for a mestrado (master's degree plus two years) or a doctorate in education. This is a new subject which the Department decided to promote directly with a view to the speedier training of teachers in higher education (university or polytechnic) (see table XXI, annex 6). */

Improvement of the material circumstances of teaching personnel

934. Article 36 of the basic law of the education system (General principles governing the careers of teachers and other education personnel) states that:

- Child education workers, teachers and other education professionals shall be entitled to remuneration and a career consistent with their professional, social and cultural qualifications and responsibilities;
- Promotion shall depend on the assessment of all work performed, individually or as a member of a team, in the education institution

by way of education and teaching and the provision of other services for the community, and on professional, educational and scientific qualifications;

- Child education workers, teachers and other education personnel shall be entitled to appeal against the assessment referred to in the previous paragraph.

935. The following are some of the relevant pieces of legislation:

- Decree-Law No. 408/89 of 18 November, which updated the salaries of higher education teachers and introduced the new system of remuneration;

- Decree-Law No. 139-A/90 of 27 April 1990, which adopted the statute on the career of child education worker or teacher in basic and secondary education. This marked a considerable advance in the definition of the rights and duties of teaching personnel. This statute led to improvements in their remuneration and their social and professional status;

- The statutes on the career of university and polytechnic teacher were approved by Decree-Law No. 448/79 of 13 November, which was amended by several legal texts. They are designed to secure advantages for teaching staff with regard to promotion and research resources.

936. In accordance with the basic law, the training of child educations workers and teachers is based on the following principles:

(a) Initial higher-level training for child education workers and teachers in all branches of education in fundamental scientific and teaching methods and techniques, as well as suitable personal and social training for the performance of their duties;

(b) Further training designed to supplement and update the initial training within a context of continuous education;

(c) Flexible training allowing job conversion and transfer of child education workers and teachers at the various levels of education, including any necessary additional professional training;

(d) Integrated training, including both training in scientific teaching methods and training in the harmonization of theory with practice;

(e) Training based on methods similar to the ones to be used in the classroom;

(f) Training which stimulates a critical and proactive attitude towards the social realities;

(g) Training which encourages innovation and research, especially in educational matters;

(h) Participatory training to develop a permanent habit of seeking information and learning on one's own initiative.

937. The training of primary child education workers and teachers (first cycle of basic education) is provided by the higher education schools and higher polytechnic schools and by the integrated teacher training centres of the new universities, which constitute a network embracing all the districts of continental Portugal and the autonomous regions of the Azores and Madeira. The courses last three years, including teaching practice, and lead to the degree of bacharel.

938. The training of teachers in the first and second cycles of basic education is also provided by the institutions mentioned above. The courses, which are organized to cover the different subjects to be taught, last four years, including teaching practice; after three years students are qualified to teach in the second cycle of basic education. Primary teachers, (first and second cycles) can obtain the qualification of their choice by taking an additional two-year course.

939. The training of teachers for secondary education and the third cycle of basic education, by subjects or group of subjects, is provided in the universities; at present there are three types of initial training including paid teaching practice of one year:

- Integrated initial training of five years leading to a licenciatura qualifying the graduate to teach the subject or group of subjects of his choice;

- Sequential initial training of five years leading to a licenciatura in teaching, or specialization in certain science subjects as an option after completing a common-core syllabus in the subject in question;

- Specialization for two years leading to a four-year science licenciatura.

940. The training of special education teachers is provided by the higher polytechnic schools. Access to these courses is open to primary teachers and child education workers who have already worked in schools.

941. The extension of the period of compulsory schooling and the proposed curriculum diversification require special attention with regard to the training of teachers and creation of educational guidance and psychology services. The subprogramme "Continuous education of basic and secondary teachers" is designed to offer teachers the possibility of periodic study and refresher courses, with a view to establishing or maintaining the motivation and the teaching and scientific skills essential to good teaching and the reform of the education system.

942. This training will have to be extended to child education workers and teachers in basic and secondary education in both the public and the private and cooperative sectors by means of further training programmes to update the scientific knowledge and social and teaching skills, as well as to facilitate

transfers within the profession, whenever that proves necessary. The success of this undertaking requires the simultaneous implementation of five measures:

(a) Strengthened and more vigorous intervention by the network of higher education institutions concerned with the training of teachers (integrated teacher training centres, university education departments, higher education schools, and higher institutes of physical education); these institutions will be the focus of scientific and teaching research, innovation and intervention;

(b) Dialogue between and concerted action by the various institutions involved in the further training of teachers, so that a timely response can be offered to the identified training needs, both qualitatively and quantitively, with a view to solving such serious problems as the isolated and peripheral location of some schools;

(c) The effective and coordinated support of the Open University;

(d) Systematic intervention by a national coordinating body;

(e) The establishment of multi-use resource centres to give teachers easy access to facilities to support their further training, in the broader context of their continuous training, by creating a space for meeting, study and debate.

943. The establishment of these multi-use resource centres will be the main objective of the first phase of the implementation of the subprogramme "Continuous training of basic and secondary teachers". These centres will have to operate as training "clubs" for highly diversified activities ranging from preschool to secondary education, and supplementing the specialized areas of teacher training, particularly special education, adult education, and educational and vocational guidance; the establishment of the multi-use resource centres is also designed to stimulate a dialogue between the schools and the teacher training institutions and encourage the use of their resource centres; it is envisaged that they will provide the human and material resources which are absolutely essential to successful teaching. Lastly, it is also envisaged that these centres will stimulate the interactive process necessary for the best possible management of the country's existing resources.

944. Following the reorganization of the Ministry on a regional basis, the initial training of adult education officers is at present the responsibility of the regional education boards. This training is based on curricula specified by the DGEE, which sometimes also plays a role in training activities.

945. The further training of trainers can also be entrusted to the DGEE at the request of the regional boards.

946. The degree of doutor is required for access to the various categories of university professor: professor holding a university chair, "associate" professor and "assistant" professor. The entry level to a university career is as "trainee assistant". Trainee assistants are promoted to the level of "assistant" after testing of their teaching skills and knowledge of their subjects, unless in the meantime they have obtained the degree of mestre. Assistants must obtain the degree of doutor within a maximum period of eight years in order to become "assistant" professors.

947. The degree of mestre or equivalent is the minimum qualification for access to the categories of "coordinating" lecturer and "auxiliary" lecturer, but access to these categories is also possible by means of public examination and submission of a technical or professional curriculum vitae of outstanding merit. The entry level to this career is as "assistant triennial 1", with promotion to "assistant triennial 2" after three years. The assistant triennial 2 must obtain the necessary qualification for the rank of "auxiliary" lecturer after three years, or more in certain circumstances, and may be excused from teaching duties for a period of up to two years.

Right of choice of school

948. Full freedom of choice of public or private school still exists on the terms described in the previous report. Article 2, paragraph 3, of the basic law states that: "With regard to education and teaching, all Portuguese are guaranteed respect for the principle of the freedom to learn and teach, and all possible choices shall be allowed, in accordance with the following principles:

(a) The State may not arrogate to itself the right to programme education and culture according to any philosophical, ideological or religious precepts;

(b) Public education shall be non-denominational;

(c) The right to establish private and cooperative schools shall be guaranteed."

Freedom to establish and operate education institutions

949. Article 75, paragraph 2, of the Constitution and article 54 of the basic law of the education system guarantee the right to establish private and cooperative schools. The chapter on private and cooperative education acknowledges the importance of such education as a concrete expression of the freedom to learn and teach and of the right of the family to choose its children's type of education. Private and cooperative education is regulated by legislation and by a specific statute based on the principles stated in the basic law.

950. With regard to the incorporation of private and cooperative schools in the public system, article 55 of the framework law states that:

(a) The private and cooperative education institutions established in accordance with the general principles, purposes, organization and objectives of the education system shall be regarded as integral parts of that system;

(b) When considering changes in and enlargement of the system, the State shall take into account the work of private and cooperative institutions in connection with nationalization of resources, use of resources, and guarantees of quality.

951. Article 56, concerning the funding of institutions and courses, states that:

(a) Private and cooperative education institutions, in exercise of the freedom to teach and learn, may use the curricula and subject content established by the State or adopt their own, subject to the provisions of paragraph 1 of the preceding article;

(b) If a private or cooperative school adopts its own curricula, such curricula shall be officially approved on a case-by-case basis by means of an analysis of their content and the conditions under which they will be taught, in accordance with standards to be established by decree-law;

(c) Authorization for the foundation and operation of private or cooperative institutions and courses, and approval of curricula and official recognition of the qualifications offered shall be granted on a case-by-case basis and by decree-law. Teachers in private or cooperative schools integrated in the public system shall be required to have the same qualifications as teachers in the public schools;

(d) Decree-Law No. 271/89 of 19 August, which approved the statute on private and cooperative higher education, gave concrete expression, with respect to this type of education, to the principles contained in the Constitution, in the basic law of the education system, in the basic law of private and cooperative education, and in the law on the freedom of education. This Decree-Law states that private and cooperative higher education is a means of exercising the fundamental right to freedom of education.

952. The State intervenes only in order to guarantee the quality of this type of education and create conditions facilitating access to education and culture and equal treatment in the exercise of the freedom of choice.

Article 14

953. At the time when it became a party to the International Covenant on Economic, Social and Cultural Rights, Portugal had already introduced compulsory and free basic education for all.

954. Article 74, paragraph 3 (a), of the Constitution stipulates that the State is responsible for ensuring "universal, compulsory and free basic education". Accordingly, Act No. 46/86 of 14 October provides that basic education shall be universal, free and compulsory.

Article 15

955. Freedom of scientific research and creative activities is established in the Constitution, which states that creative activities and scientific research and technological innovation shall also be encouraged and supported by the State.

956. In this connection, chapter 15 of the basic law of the education system states that:

(a) The State shall guarantee the material and cultural conditions necessary for creative activities and scientific research;

(b) The necessary conditions shall be established in institutions of higher education for the promotion of scientific research and the conduct of research and development activities;

(c) Scientific research in higher education shall take into account the main objectives of the institution where it is conducted, without prejudice to an open attitude towards progress, knowledge and the solution of the problems of the country's social, economic and cultural development;

(d) The publication of scientific works shall be guaranteed, and the dissemination of new knowledge and developments in scientific thought, and of technological progress and cultural works shall be facilitated;

(e) The State shall encourage collaboration between public, private and cooperative bodies in order to stimulate the development of science, technology and culture, taking particular account of the interests of the community.

957. In this context, attention is drawn to the following measures:

- Regulations on the award of grants for scientific meetings in Portugal;

- Establishment of a working group to operate as a strategic planning unit for scientific research in higher education; the goal is to prepare a draft of the new basic law of the National Institute of Scientific Research;

- Establishment of a working group to draw up an inventory of the opportunities of cooperation between the National Institute of Scientific Research and the African countries whose official language is Portuguese (PALOP);

- Establishment of a working group to study the organization of science clubs; such clubs would be concerned with exchanges of ideas, research and experience between higher education teachers/researchers and teachers at other levels of education and students, as well as with the use of other means of scientific exchange between different levels of education.

958. The function of the National Institute of Scientific Research (INIC) is to contribute to the development of scientific research, especially in higher education, with a view to the elaboration and introduction of plans for the training of the personnel required by the country's development, especially within the context of the higher education system. The research centres, apart from the astronomical observatory in Lisbon, operate under the auspices of the National Institute. A draft basic law on the reorganization of the Institute is awaiting ministerial approval.

959. Meanwhile, the Institute carries out the following main activities:

(a) Funding and coordinating its own research centres and/or joint research with university faculties; fundirg is based on the opinions offered by the scientific councils of INIC concerning the research activities in question and the proposed plans. At present, INIC has 125 research centres and two

support services; there are 3,599 researchers operating under the auspices of INIC, including 1,274 holding doctorates;

(b) Funding research projects within and outside its own research centres; research contracts have been drawn up for the purpose of dual funding of higher education and to ensure that the scientific research projects submitted by university teachers who are not members of the INIC centres can have access to INIC support;

(c) Award of various types of scholarship in Portugal and abroad to teachers and researchers (see art. 13 above);

(d) Encouragement of collaboration between Portuguese and foreign scientific research institutions; in addition to scientific exchanges under agreements with several countries and scientific institutions, INIC is a member of the European Science Foundation and of several European networks and it participates in other scientific activities and in international workshops. Furthermore, with a view to the development of research, in addition to providing subsidies INIC also sponsors national scientific meetings and meetings organized in Portugal by international organizations;

(e) Subsidizing the publication of scientific or technical works; one of the Institute's functions is to promote and subsidize the publication of scientific and technical texts. This support can take two forms: subsidy in a proportion established case by case; and publication by the Institute itself;

(f) Provision of scientific and technical documentation and information services, and development of cooperation using international data bases and banks; through its specialized information service - the Scientific and Technical Documentation Centre - INIC offers the following services to all national and foreign users: reference service; conversational retrospective research service; cataloguing and documentation service; and selective dissemination of information service.

960. The Institution has specialized support units in the shape of its scientific councils, whose function is to assess the scientific merits of written works and the scientific research initiatives or activities to be undertaken by INIC in specialized subjects.

961. As stated above, INIC was transferred to the Ministry of National Planning and Administration by the Decree-Law of 8 August 1989.

962. INIC has six scientific councils for the following subjects: exact sciences, natural sciences, engineering, health sciences, human sciences and social sciences.

963. The total cost of the research funded by INIC has increased considerably in recent years. In percentage terms, the biggest increases between 1984 and 1986 were under the following headings: study scholarships (+265.6%), research contracts (+248.4%), subsidiary bodies (+160%) and scientific exchanges (+144.9%).

964. Decree-Law No. 188/92 of 27 August dissolved the INIC and transferred its main functions provisionally to the National Board for Scientific and Technological Research (JNICT). This text lists the following functions:

(a) Support for research centres and related services operating under INIC auspices which have just been integrated in the universities under a specific multi-year contract programme;

(b) Support for the production and publishing of scientific and technical texts, ensuring continuity with the publishing activities of the INIC, mainly in the social and human sciences;

(c) Support for scientific research through the scientific and technical documentation and information services, in collaboration with national and foreign documentation and information centres and networks, in order in particular to maintain the accessibility of periodical publications in Portuguese libraries and keep them up to date;

(d) Participation in the negotiation and implementation of bilateral and multilateral covenants, treaties, conventions and agreements, and in international meetings on scientific and technical research and information, in order to ensure that the commitments entered into by the INIC are fulfilled;

(e) Promotion and holding of congresses, conferences and other scientific meetings, and provision of subsidies for researchers and teachers to participate in such events.

965. In addition, the Institute of Tropical and Scientific Research (IICT), in accordance with Decree-Law No. 3/87 of 3 January, is responsible for promoting scientific and technical research in tropical regions and for concluding scientific and technical cooperation agreements with tropical countries under the overall cooperation and research policy. The IICT has juridical personality and admiristrative and financial independence. It has 23 research centres (in six areas of research), where preparations are currently being made for the start-up of 260 research and development projects in cooperation with 43 tropical countries, including all the African countries whose official language is Portuguese. In addition to these projects, the IICT has introduced a number of training measures for its scientific and technical staff.

966. In accordance with article 13 of Decree-Law No. 3/87, the Institute of Portuguese Culture and Language has taken over responsibility for the development of teaching and dissemination of Portuguese Culture and Language, especially in universities and similar institutions in Portugal and abroad, and for organizing and operating the Portuguese lectureships abroad. Again in accordance with this Decree-Law, the Institute of Portuguese Culture and Language has juridical personality and administrative and financial independence.

967. The Department of Higher Education is responsible for awarding scholarships for study for the degrees of mestrado and doutoramento in education.

Notes

*/ Available for consultation from the Secretariat.

1/ Technical and financial cooperation agreements have been concluded for this purpose with associations and other self-help bodies with a view to the prevocational and vocational training of disabled young persons and their integration in the open or protected labour market. The Institute of Employment and Vocational Training maintains a special vocational rehabilitation centre (Alcoitão - Cascais) which provided job training for 70 disabled persons in 1986 and is currently launching courses for the disabled in two other vocational training centres.

2/ Decree-Law No. 206/79 of 4 July introduced arrangements to encourage unemployed workers to accept jobs in regions other than their region of residence, except for Lisbon and Porto.

3/ We took 1983 since that year saw the start of a new series of the Employment Survey.

4/ See report on article 13 above.

5/ The previous system was regulated by Decree-Law No. 49408 of 24 November 1969.

6/ Decree-Law No. 637/74 was amended by Decree-Laws No. 23-A/79 of 14 February and No. 123/80 of 17 May.

7/ With regard to the fight against poverty, attention is drawn to the method of calculating the national minimum wage: the legislation on the national minimum wage has been in existence since 1974 in order to guarantee workers living conditions enabling them to work and if possible move up to a better job. In addition to the cost of living, the national minimum wage is calculated on the basis of the food needs of workers. These needs are incorporated in the calculation of a minimum family budget for a worker earning only the national minimum wage. It should be noted that the method of calculating the family budget following the calculation of the national minimum wage is a further indicator which should be taken into account in the fight against poverty. With regard to the legal regulations, see Decree-Law No. 69-A/87 of 9 February and the commentary thereto, in connection with article 7 of the Covenant.